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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0075; Directorate Identifier 2014–NM–202–AD; Amendment 39–18461; AD 2016–07–16]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2013–26–08 for certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. AD 2013–26–08 required inspecting the orientation of both sides of the coil cord connector keyways of the number 2 windows on the flight deck; re-clocking the connector keyways, if necessary; and replacing the coil cord assemblies on both number 2 windows on the flight deck. This new AD adds airplanes to the applicability. AD 2013–26–08 resulted from reports of arcing and smoke at the left number 2 window in the flight deck. This AD was prompted by a determination that additional airplanes are subject to the same identified unsafe condition. We are issuing this AD to prevent arcing, smoke, and fire in the flight deck, which could lead to injuries to or incapacitation of the flightcrew.

DATES: This AD is effective May 12, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 10, 2014 (79 FR 545, January 6, 2014).

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. This service information is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0075.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0075; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Frank Carreras, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6442; fax: 425–917–6590; email: *frank.carreras@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014) ("AD 2013–26–08"). AD 2013–26–08 applied to certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. The NPRM published in the **Federal Register** on January 23, 2015 (80 FR 3527) ("the NPRM"). AD 2013–26–08 resulted from reports of arcing and smoke at the left number 2 window in the flight deck. The NPRM was prompted by a determination that additional airplanes are subject to the same identified unsafe condition. The NPRM proposed to continue to require inspecting the orientation of both sides of the coil cord connector keyways of the number 2 windows on the flight deck; re-clocking the connector keyways, if necessary; and replacing the coil cord assemblies on both number 2 windows on the flight deck. The NPRM also proposed to add airplanes to the applicability. We are issuing this AD to prevent arcing, smoke, and fire in the flight deck, which could lead to injuries to or incapacitation of the flightcrew.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for the NPRM

Boeing stated that it supports the NPRM as written.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that the installation of winglets per Supplemental Type Certificate (STC) ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/184de9a71ec3fa5586257eae00707da6/$FILE/ST00830SE.pdf*) does not affect the accomplishment of the manufacturer's service instructions.

We agree with the commenter that STC ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/184de9a71ec3fa5586257eae00707da6/$FILE/ST00830SE.pdf*) does not affect the accomplishment of the manufacturer's service instructions. Therefore, the installation of STC ST00830SE does not affect the ability to accomplish the actions required by this AD. We have not changed this AD in this regard.

Comment Regarding Applicability

United Airlines (UAL) stated that it found it curious that the technical compliance mandated in AD 2013–26–08 was per Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, whereas the airplane applicability in AD 2013–26–08 was based on Boeing Special Attention Service Bulletin 737–30–1058, Revision 4, dated November 3,

2011. UAL stated that, consequently, it anticipated further regulatory action that would include the Group 3 airplanes specified in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, and has acted accordingly. UAL also stated that, since it was already planning accomplishment on the Group 3 airplanes, the only impact to it will be to change the AD number on the compliance documentation. UAL stated that it has no further comments at this time.

We acknowledge UAL's comment. No change to this AD is necessary.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 718 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Number of airplanes	Cost on U.S. operators
Keyway inspection and installation (Group 1, Configuration 1 airplanes) [actions retained from AD 2013-26-08].	6 work-hours × $85 per hour = $510.	$1,608	$2,118	712	$1,508,016.
Adjustment of receptacles (Group 1, Configuration 2, Group 2, and Group 3 airplanes) [actions retained from AD 2013-26-08].	4 work-hours × $85 per hour = $340.	0	340	410	139,400.
Coil cord inspection (Group 1, Configuration 3, and Group 2 airplanes) [actions retained from AD 2013-26-08].	1 work-hour × $85 per hour = $85 per coil cord.	0	85 per coil cord	404	34,340 per coil cord.

We estimate the following costs to do any necessary replacements that would be required based on the results of the coil cord inspection. We have no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	3 work-hours × $85 per hour = $255 per coil cord assembly.	$1,735 per coil cord assembly	$1,990 per coil cord assembly.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014), and adding the following new AD:

2016–07–16 The Boeing Company: Amendment 39–18461; Docket No. FAA–2015–0075; Directorate Identifier 2014–NM–202–AD.

(a) Effective Date

This AD is effective May 12, 2016.

(b) Affected ADs

This AD replaces AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014) ("AD 2013–26–08").

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013.

(d) Subject

Air Transport Association (ATA) of America Code 30, Ice and Rain Protection.

(e) Unsafe Condition

This AD was prompted by reports of arcing and smoke at the left number 2 window in the flight deck. We are issuing this AD to prevent arcing, smoke, and fire in the flight deck, which could lead to injuries to or incapacitation of the flightcrew.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Inspection and Replacement for Group 1, Configuration 1, Airplanes

This paragraph restates the requirements of paragraph (g) of AD 2013–26–08, with no changes. For airplanes identified as Group 1, Configuration 1, in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013: Within 48 months after February 10, 2014 (the effective date of AD 2013–26–08), do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Do a general visual inspection of the orientation of the coil cord connector keyways on the captain's and first officer's sides of the flight compartment, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (k) of this AD. If the orientation is not at the specified position, before further flight, turn the receptacle connector to the correct position, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (k) of this AD.

(2) Replace the coil cords with new coil cords on both sides of the flight deck, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (k) of this AD.

(h) Retained Receptacle Replacement for Group 1, Configuration 2, and Group 2, Configuration 1, Airplanes

This paragraph restates the requirements of paragraph (h) of AD 2013–26–08, with no changes. For airplanes identified as Group 1, Configuration 2, and Group 2, Configuration 1, in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013: Within 48 months after February 10, 2014 (the effective date of AD 2013–26–08), install the receptacle connector with changed keyway position on both sides of the flight deck, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (k) of this AD.

(i) Retained Coil Cord Inspection and Corrective Action

This paragraph restates the requirements of paragraph (i) of AD 2013–26–08, with no changes. For airplanes identified as Group 1, Configuration 3, and Group 2, Configuration 2, in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013: Within 48 months after February 10, 2014 (the effective date of AD 2013–26–08), do a general visual inspection for rubbing damage of the coil cord on the captain's and first officer's sides of the flight compartment, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (k) of this AD. If any rubbing damage is found: Before further flight, replace the coil cord with a new coil cord, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (k) of this AD.

(j) New Requirements of This AD: Receptacle Replacement for Group 3 Airplanes

For airplanes identified as Group 3 in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013: Within 48 months after the effective date of this AD, install the receptacle connector with changed keyway position on both sides of the flight deck, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (k) of this AD.

(k) Exceptions to Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013

(1) This paragraph restates the provisions of paragraph (j)(1) of AD 2013–26–08, with no changes. In the circuit breaker tables of the Work Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, the panel number for circuit breaker C00393 is incorrectly identified as "P6–12." The correct panel number reference for circuit breaker C00393, "WINDOW HEAT POWER RIGHT SIDE," is P6–11.

(2) This paragraph restates the provisions of paragraph (j)(2) of AD 2013–26–08, with no changes. In paragraph 3.B. of the Work Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, the description for Part 3 of the Work Instructions is identified as "PART 3: RECEPTACLE CONNECTOR POSITION CHANGE," which is incorrect. The correct description for Part 3 of the Work Instructions is "PART 3: COIL CORD INSPECTION AND REPLACEMENT IF DAMAGE IS FOUND."

(3) This paragraph restates the provisions of paragraph (j)(3) of AD 2013–26–08, with no changes. In Figures 13 and 14, in paragraph 3.B. of the Work Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, the note before the step tables misidentifies certain parts and airplane groups. The note should read:

Note: Group 1 and Group 2 airplanes have the connector receptacle identified as D10572. Group 3 airplanes have the connector receptacle identified as D10560. Except for Group 1 airplanes, a wire diagram change is not necessary and not shown in this service bulletin.

(l) Credit for Previous Actions

This paragraph restates the provisions of paragraph (k) of AD 2013–26–08, with no changes. This paragraph provides credit for the replacement required by paragraph (g)(2) of this AD, if the replacement was performed before February 10, 2014 (the effective date of AD 2013–26–08), using the service information specified in paragraph (l)(1), (l)(2), (l)(3), (l)(4), or (l)(5) of this AD, provided that the actions required by paragraph (h) of this AD were done as specified in Boeing Special Attention Service Bulletin 737–30–1058, Revision 4, dated November 3, 2011; or Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013; for airplanes in Group 1, Configuration 2, and Group 2.

(1) Boeing Service Bulletin 737–30–1058, dated July 27, 2006, which is not incorporated by reference in this AD.

(2) Boeing Service Bulletin 737–30–1058, Revision 1, dated June 18, 2007, which is not incorporated by reference in this AD.

(3) Boeing Service Bulletin 737–30–1058, Revision 2, dated February 13, 2009, which is not incorporated by reference in this AD.

(4) Boeing Special Attention Service Bulletin 737–30–1058, Revision 3, dated July 7, 2010, which is not incorporated by reference in this AD.

(5) Boeing Special Attention Service Bulletin 737–30–1058, Revision 4, dated November 3, 2011, which was previously incorporated by reference on February 10, 2014 (79 FR 545, January 6, 2014).

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if

requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (n)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) AMOCs approved for AD 2013–26–08, are approved as AMOCs for the corresponding provisions of this AD.

(4) For airplanes identified as Group 3 in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, AMOCs approved for the actions required by paragraph (h) of AD 2013–26–08, are approved as AMOCs for the corresponding provisions of paragraph (j) of this AD.

(n) Related Information

(1) For more information about this AD, contact Frank Carreras, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6442; fax: 425–917–6590; email: *frank.carreras@faa.gov*.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (o)(4) and (o)(5) of this AD.

(o) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on February 10, 2014 (79 FR 545, January 6, 2014).

(i) Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013.

(ii) Reserved.

(4) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*.

(5) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(6) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Renton, Washington, on March 24, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–07576 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–3692; Directorate Identifier 2016–NE–05–AD; Amendment 39–18458; AD 2016–07–13]

RIN 2120–AA64

Airworthiness Directives; GE Aviation Czech s.r.o. Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain GE Aviation Czech s.r.o. M601E–11 turboprop engines. This AD requires inspection of the engine power turbine (PT) disk and, if found damaged, its replacement with a part eligible for installation. This AD was prompted by discovery of damage to certain engine PT disks during engine shop visits. We are issuing this AD to prevent failure of the engine PT disk, which could result in release of high-energy debris, damage to the engine, and reduced control of the airplane.

DATES: This AD becomes effective April 22, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 22, 2016.

We must receive comments on this AD by May 23, 2016.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal*: Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail*: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery*: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax*: 202–493–2251.

For service information identified in this AD, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9—Letňany, Czech Republic; phone: +420 222 538 111; fax: +420 222 538 222. You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7125. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3692.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3692; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kenneth Steeves, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7765; fax: 781–238–7199; email: *kenneth.steeves@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–3692; Directorate Identifier 2016–NE–05–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2016–0025–E, dated January 26, 2016 (corrected January 27, 2016) (referred to hereinafter as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> During engine shop visits or overhauls, certain power turbine (PT) disks may have been damaged in the area of the balance weights. Additional PT disks with non-conforming geometry of the slot radius may have also been released to service as a result of incorrect machining of the PT disk slot.
>
> This condition, if not corrected, could lead to a PT disk failure, with subsequent release of high-energy debris, possibly resulting in damage to, and/or reduced control of, the aeroplane.

You may obtain further information by examining the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3692.

Related Service Information Under 1 CFR Part 51

GE Aviation Czech s.r.o. has issued Alert Service Bulletin (ASB) No. SB–2016–72–50–00–1/00, dated January 21, 2016. The ASB describe procedures for inspection of the PT disk. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of the Czech Republic, and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This AD requires inspection of the engine PT disk and, if found damaged, its replacement with a part eligible for installation.

FAA's Determination of the Effective Date

No domestic operators use this product. Therefore, we find that notice and opportunity for prior public comment are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

Costs of Compliance

We estimate that this AD affects 0 engines installed on airplanes of U.S. registry. We also estimate that it will take about 60 hours per engine to do the inspection required by this AD. The average labor rate is $85 per hour. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $0.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–07–13 GE Aviation Czech s.r.o. (Type Certificate previously held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.): Amendment 39–18458; Docket No. FAA–2016–3692; Directorate Identifier 2016–NE–05–AD.

(a) Effective Date

This AD is effective April 22, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to GE Aviation Czech s.r.o M601E–11 turboprop engine models with engine power turbine (PT) disk, part number 3220.6 and serial number EE8, EF8, or KR5, installed.

(d) Reason

This AD was prompted by discovery of damage to certain engine PT disks during engine shop visits. We are issuing this AD to prevent failure of the engine PT disk, which could result in release of high-energy debris, damage to the engine, and reduced control of the airplane.

(e) Actions and Compliance

Comply with this AD within the compliance times specified, unless already done.

(1) Within 90 days after the effective date of this AD, perform visual, dimensional, and fluorescent penetrant inspections of the engine PT disk. Use Appendix B, paragraph 5 of GE Aviation Czech s.r.o. Alert Service Bulletin (ASB) No. SB–2016–72–50–00–1/00, dated January 21, 2016, to do the inspections.

(2) If the engine PT disk fails to meet the acceptance criteria in Appendix B, paragraph 5 of GE Aviation Czech s.r.o. ASB No. SB–2016–72–50–00–1/00, dated January 21, 2016, replace the PT disk with a part eligible for installation.

(f) Installation Prohibition

After the effective date of this AD:

(1) Do not operate any engine with a PT disk serial number listed in paragraph (c) of this AD, unless the disk was inspected per the requirements of paragraph (e) of this AD; and

(2) Do not install a PT disk that does not meet the acceptance criteria in Appendix B, paragraph 5 of GE Aviation Czech s.r.o. ASB

No. SB–2016–72–50–00–1/00, dated January 21, 2016, onto any engine.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(h) Related Information

(1) For more information about this AD, contact Kenneth Steeves, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7765; fax: 781–238–7199; email: *kenneth.steeves@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2016–0025–E, dated January 26, 2016 (corrected January 27, 2016), for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2016–3692.

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) GE Aviation Czech s.r.o. Alert Service Bulletin No. SB–2016–72–50–00–1/00, dated January 21, 2016.

(ii) Reserved.

(3) For GE Aviation Czech s.r.o service information identified in this AD, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9—Letňany, Czech Republic; phone: +420 222 538 111; fax: +420 222 538 222.

(4) You may view this service information at FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7125.

(5) You may view this service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on March 24, 2016.

Colleen M. D'Alessandro,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2016–07843 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1211

[Docket No. CPSC–2015–0025]

Safety Standard for Automatic Residential Garage Door Operators

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission ("Commission" or "CPSC") is issuing a final rule amending the regulations for the *Safety Standard for Automatic Residential Garage Door Operators* to reflect changes made by Underwriters Laboratories, Inc. ("UL"), in the entrapment protection provisions in UL's standard UL 325, Sixth Edition, "Standard for Safety for Door, Drapery, Gate, Louver, and Window Operators and Systems."

DATES: The rule is effective on May 9, 2016. The incorporations by reference of the publications listed in this rule are approved by the Director of the **Federal Register** as of May 9, 2016.

FOR FURTHER INFORMATION CONTACT: Troy W. Whitfield, Lead Compliance Officer, Office of Compliance, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814–4408; Telephone (301) 504–7548 or email: *twhitfield@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

The Commission has regulations for residential garage door operators ("GDOs") to protect consumers from the risk of entrapment. 16 CFR part 1211. The Commission first issued the GDO standard in 1991, at the direction of the Consumer Product Safety Improvement Act of 1990 ("Improvement Act"), Public Law 101–608. Section 203 of the Improvement Act mandated that the entrapment protection requirements of the 1988 version of UL's 325, Third Edition, "Standard for Safety for Door, Drapery, Gate, Louver, and Window Operators and Systems," be considered a consumer product safety rule under the Consumer Product Safety Act. Section 203(c) of the Improvement Act established procedures for the Commission to revise the Commission's GDO standard. When UL revises the entrapment protection requirements of UL 325, UL must notify the Commission of the revision, and that revision "shall be incorporated in the consumer product safety rule . . . unless, within 30 days of such notice, the Commission notifies [UL] that the Commission has determined that such revision does not carry out the purposes of subsection (b)" [of section 203 of the Improvement Act which mandated the UL 325 entrapment protection requirements initially]. As provided in the Improvement Act, several times in the past, after UL has notified the Commission of changes to UL 325's entrapment protection requirements, the Commission has revised the GDO standard to reflect the UL updates.

The Commission last updated 16 CFR part 1211 in 2007 to reflect changes made to the entrapment protection provisions of UL 325 up to that time that previously had not been reflected in the regulation.

On September 2, 2015, the Commission published a notice of proposed rulemaking ("NPR"), proposing to update 16 CFR part 1211 to reflect recent changes made by UL to the entrapment protection requirements of UL 325. (*See* 80 FR 53036). After publication of the NPR, UL released an update to UL 325 (UL 325, Sixth Edition, February 24, 2016 Revision). The February 24, 2016 revisions to the UL 325 Sixth Edition are related to the entrapment protection provisions for residential GDOs and are minor and editorial in nature. The February 24, 2016 revisions were made by UL to improve the clarity of the standard and describe test conditions better. The final rule has been revised to incorporate these editorial changes, as described in Section C of the preamble, so that the rule is consistent with the most recent version of UL 325.

B. Responses to Comments

Three comments were submitted on the NPR. Two commenters express support for the proposed rule and acknowledge the rule's safety benefits.

Comment: One commenter expresses concern about the public availability and accessibility of documents that are incorporated by reference, by either congressional mandate or through rulemaking. The commenter asserts that it is unclear which version of UL 325 is mandatory law. The commenter also describes the difficulties encountered attempting to purchase UL 325, an attempt to request the standard under FOIA, as well as difficulty accessing UL 325 in government reading rooms or libraries. The commenter also asserts that the Fifth Edition of UL 325 is the current binding law, until the proposed rule is finalized.

The commenter also notes that the NPR proposed incorporating by reference five voluntary standards that are contained in UL 325. The commenter asserts that it is unclear what version of UL 99, UL 1998, and UL 746C the Commission proposed to incorporate by reference in the NPR. The commenter notes that the UL link in the NPR for the proposed incorporation by reference for the voluntary standard ANSI/DASMA 102–2004 is inoperative. The commenter further states that the DASMA Web site has a new version ANSI/DASMA 201–2011 on their Web site, and ANSI/DASMA 102–2004 is no longer available. The commenter asserts there is no reason to incorporate ANSI/DASMA 102–2004 because it is not readily available on the DASMA or CPSC Web site.

The commenter contends that it is crucial that these five voluntary standards be made freely available. The commenter notes that the law must be available for all to read because ignorance of the law is no excuse.

Response: The commenter misunderstands the mandatory safety standard for automatic residential GDOs. The NPR did not propose incorporating by reference any part of UL 325, nor has any previous rulemaking under 16 CFR part 1211 incorporated by reference any part of UL 325. Therefore, no version of the voluntary standard UL 325 is currently mandatory, nor has it been mandatory in the past. Rather, using appropriate rulemaking procedures, the Commission has based the current and previous mandatory requirements of CPSC's safety standard for automatic residential GDOs in 16 CFR part 1211 on the entrapment protection provisions of UL 325. The NPR proposed revisions to 16 CFR part 1211 based upon revisions made to UL 325, but the NPR does not incorporate by reference any of the provisions of UL 325. All the requirements in the proposed rule are codified or incorporated in 16 CFR part 1211. Therefore, purchase of, or access, to any version UL 325 is not necessary to determine the legal requirements for automatic residential GDOs; all of the requirements for GDOs are stated in 16 CFR part 1211, which is publicly available in the Code of Federal Regulations ("CFR").

As correctly noted by the commenter, the Office of the Federal Register ("OFR") requires reference to a specific version of a voluntary standard for the standard to be incorporated by reference in the CFR. The preamble and the codified text of the NPR clearly indicated what version of UL 99, UL 1998, and UL 746C was being proposed for incorporation by reference. (*See* 80 FR at 53039).

Regarding the incorporation by reference of the ANSI/DASMA 102–2004 voluntary standard in the NPR, the commenter is correct that the link on the DASMA Web site currently is inoperative. After publication of the NPR in the **Federal Register**, DASMA removed the ANSI/DASMA 102–2004 voluntary standard from its Web site and replaced it with the more recent version, ANSI/DASMA 102–2011. DASMA gave no indication on its Web site when the NPR was published that the standard was being updated with a newer version. As noted by the commenter, the revisions in ANSI/DASMA 102–2011 are not substantive in nature. Due to the public availability and the editorial nature of the changes reflected in ANSI/DASMA 102–2011, the final rule incorporates by reference ANSI/DASMA 102–2011, in lieu of the proposed incorporation of ANSI/DASMA 102–2004 in the NPR. The 2011 version of the ANSI/DASMA standard is available on DASMA's Web site.

Regarding the commenter's assertions about the incorporation by reference of five voluntary standards in the NPR, the OFR recently updated 1 CFR part 51, the regulation governing incorporation by reference in the CFR. (Final Rule, 79 FR 66267, November 7, 2014). Responding to comments regarding accessibility, the OFR noted that the final rule for incorporation by reference balanced the standards' reasonable availability with U.S. copyright law, U.S. international trade obligations, and agencies' ability to substantively regulate under their authorizing statutes. The OFR noted that to achieve this balance, the incorporation by reference rule requires that agencies discuss how incorporated materials were made publicly available to the parties, where those materials are located, and provide a summary of those materials in the preambles of rulemaking documents. (*See* 79 FR at 66270). The preamble to the NPR for the safety standard for automatic residential garage door operators provided that information. (*See* 80 FR 53036, 53039). The OFR noted in the preamble to the final rule regarding incorporation by reference and the cost of standards: "while these materials may not be as easily accessible as the commenter would like, . . . they are described in the regulatory text in sufficient detail so that a member of the public can identify the standard IBR'd into the regulation." (79 FR at 66272). The Commission has met the requirements for 1 CFR part 51 regarding incorporation by reference.

C. Description of the Final Rule

The final rule revises subpart A of the GDO standard and creates a new subpart D to consolidate all of the incorporations by reference in the rule. The final rule does not change the certification (subpart B) or recordkeeping (subpart C) provisions of the GDO standard. The text of the final rule is nearly identical to the NPR, with the few exceptions described below. As explained in the NPR, the Commission is revising several sections of the existing regulation. In addition, the rule adds three new sections (§§ 1211.14 (unattended operation requirements), 1211.15 (vertically moving combination rigid one-piece overhead residential garage door and operator system) and 1211.40 (consolidating all of the incorporations by reference in one place).

Changes to the rule reflect changes that UL made to the entrapment protection provisions of UL 325. UL added requirements for certain types of GDOs that were not previously covered by the GDO standard. Most of the revisions to the GDO standard involve adding requirements for these types of GDOs and making changes related to these provisions. In addition, UL added requirements for unattended operation of GDOs and for wireless control and communications. Finally, UL made several editorial changes throughout the standard to provide better descriptions of the appropriate requirements and test conditions. UL also revised dimensional tolerances on test fixtures so that the fixtures can be manufactured using generally available machine tools. As discussed in more detail below, the Commission is incorporating these changes into the Commission's GDO standard at 16 CFR part 1211.

GDOs that Open Horizontally. Because UL added requirements for GDOs that open horizontally, the rule is revised to differentiate between requirements for horizontal- and vertical-opening GDOs (§ 1211.6(d)). Entrapment protection requirements are similar for vertically and horizontally opening GDOs. UL added and clarified test requirements to address entrapment protection for either vertical or horizontal movement. In addition, UL clarified wording throughout the standard, such as replacing "downward movement" with "closing movement," and adding "vertically" or "horizontally" moving, where appropriate. Additionally, UL clarified secondary entrapment protection requirements for vertically and horizontally opening GDOs. The final rule incorporates these changes (§ 1211.8).

Combination Sectional Overhead GDOs. UL added requirements for combination sectional overhead GDOs, which are a door and operator combination, in which the door and hardware are an integral part of the operator, and in which the operator does not exert a driving force on the door in the closing direction. The final rule incorporates these changes (§ 1211.6(c)). Under UL's revised provisions, this type of GDO must comply with the common requirements for GDOs; plus, they must comply with the requirements found in the American National Standard/Door and Access Systems Manufacturers ANSI/DASMA 102–2011, *Specifications for Sectional Doors,* 2011 revision, dated May 19, 2011, which the rule incorporates by reference (§ 1211.6(c)). As noted in response to a comment in Section B of the preamble, the Commission is incorporating ANSI/DASMA 102–2011 instead of ANSI/DASMA 102–2004 as proposed in the NPR because ANSI/ DASMA 102–2011 is the most recent version of the standard and the one publically available on the DASMA Web site. ANSI/DASMA 102–2011 does not differ from ANSI/DASMA 102–2004 substantively because the changes are merely editorial in nature.

ANSI/DASMA 102–2011 provides requirements for installation/operation, maintenance, durability, and identification of GDO systems with the name and address of the door system manufacturer, loads, in addition to general requirements. This ANSI/ DASMA standard is available from ANSI/DASMA, or the standard may be examined at the offices of the **Federal Register**.

Additionally, the revised UL standard requires that the instructions for combination sectional overhead GDOs must specify: (1) The operator by manufacturer and model; (2) the doors by manufacturer, model, and maximum and minimum door width and height required for compliance to the entrapment protection requirements; (3) the hardware required to meet the entrapment protection requirements (§ 1211.16(a)(13)); and (4) how to properly counterbalance the door ((§ 1211.16(a)(14)). Finally, combination sectional overhead GDOs must be provided with permanent labels that contain specific warnings (§ 1211.17(k)) and markings (§ 1211.17 (m)). The rule includes these requirements in the sections indicated.

Unattended Operation of GDOs. UL added requirements for unattended operation of GDOs, which is permitted if additional safety features are provided. The final rule includes these requirements (new § 1211.14). Under UL's revised provisions, unattended operation is allowable only if proper installation instructions and markings are provided. Unattended GDOs must require one or more intentional actions to function and must require an audible and visual alarm that must signal for 5 seconds before door movement. Unattended operation is not permitted on one-piece or swinging garage doors. The word "bulb" is changed to "light" to address newer technologies that may use LEDs that may not be considered "bulbs" and clarifies that the visual or audio alarm during unattended operation does not require monitoring.

Combination Rigid One-Piece Overhead GDOs. UL added requirements for combination rigid one-piece overhead GDOs, which are a door and operator combination in which the door is constructed of one rigid piece. The final rule includes these requirements (new § 1211.15). Under UL's revised provisions, this type of GDO must comply with the common requirements for GDOs; plus, the speed of the door edge during movement must not exceed 6 inches per second. This type of GDO also must provide two additional independent secondary entrapment-protection devices, including a minimum of two sensors. Additionally, these GDOs must provide a means of mechanically detaching both door operators from the door and must have an interlock to de-energize the operator when detached. Finally, the installation instructions for combination rigid one-piece GDOs must specify attachment points for installation. The rule includes these requirements for instructions (§ 1211.16(b)(2)(13)).

Wireless Control and Communication. UL added requirements for wireless control (§§ 1211.8(d) and 1211.10(f)), including additional tests for battery operation (§ 1211.10(g)) and wireless communication (§ 1211.10(h)). The rule includes these requirements at the sections indicated.

Photoelectric Sensors. UL added requirements for alternate sources of light for the photoelectric sensor ambient light test. The rule includes these requirements (§ 1211.11(e)(2)). The current test method specifies a specific DXC–RFL–2 flood lamp, which is becoming difficult to obtain in the marketplace. Instead, the requirement specifies the minimum required wattage (500W) and maximum color temperature (3600K) of the light, to allow for available light sources without affecting the test results.

UL added a new test method for GDOs that use an array of "vertical" photoelectric sensors as a non-contact external entrapment protection device. The rule includes this new test method (§ 1211.11 (d)(4) and new paragraph (f)). The new method verifies that the "vertical" sensors function properly.

Clarifications. UL made several clarifications throughout the standard to improve clarity and describe test conditions better. The rule includes these clarifications:

- Electronic instructions (§ 1211.16(a)(10)) may be provided on alternate sources, such as CD–ROM, USB flash drive, or company Web site.
- For GDOs for one-piece doors that have an unattended operation function, certain markings are not required if the GDO automatically senses door operation (§§ 1211.16(b)(1)(ii), 1211.17(h), and 1211.18(m)),
- The requirements for UL markings for voltage, frequency, and input are clarified (§ 1211.18(b)(3) and (4)).
- UL marking requirements for risk of entrapment on GDOs that have user adjustments (§ 1211.18(i)) shall be located where visible to the user when making adjustments.
- Requirements for the external entrapment protection device (*i.e.,* photoelectric sensor and edge sensor) test criteria (§ 1211.10(b), (c), and (e) and § 1211.11(d)(4)) are clarified, and the requirements for determining whether the system is operating normally before and after each test are made consistent throughout the standard.
- The requirements for the switch or relay used in the entrapment protection circuit (§ 1211.6(f)) are clarified by stating that the switch or relay must be capable of operating at a minimum cycling of 100,000 cycles, as intended in the GDO without failing, *and* that when/ if failure does occur in actual use (at any cycle count), failure shall result in preventing further operation of the door.

As mentioned above, the rule reflects a few minor and editorial changes in UL 325, Sixth Edition, February 24, 2016 Revision. In addition, the final rule is adding a new subpart D to consolidate the incorporations by reference in the proposed rule in one location. The rule reflects the revisions below:

- Update the incorporation by reference in § 1211.6(c) from ANSI/ DASMA 102–2004 to the more recent and available ANSI/DASMA 102–2011 voluntary standard.
- Add a new subpart D titled Incorporation by Reference, with a new § 1211.40 that centralizes the IBR paragraphs from the NPR in one location.
- Add a new cross reference in § 1211.8 (f) to § 1211.6(b)(3).
- Revise § 1211.16 (b)(1)(i)(3) to add the word "pull" before rope, and add two commas.
- Revise § 1211.16 (b)(1)(i)(6) to insert "above floors, landings, steps, or any

other adjacent walking surface" between the words "feet" and "so."

- Revise § 1211.16 (b)(1)(i)(9) by striking the proposed language and replacing with "For products having a manual release, instruct the end user on the operation of the manual release."
- Create a new § 1211.16 (b)(1)(i)(10), and insert the language from proposed § 1211.16 (b)(1)(i)(9) in the new § 1211.16 (b)(1)(i)(10).

D. Incorporation by Reference

As noted above, a new subpart D titled Incorporation by Reference, with a new § 1211.40 that centralizes the IBR paragraphs from the NPR in one location is being added to the final rule. In addition, the rule updates the existing incorporations by reference in the mandatory rule to the most recent version of the appropriate voluntary standard, as follows:

- NFPA 70 (The standard addresses the installation of electrical conductors, equipment, and raceways; signaling and communications conductors, equipment, and raceways; and optical fiber cables and raceways in commercial, residential, and industrial occupancies.)(§§ 1211.2(c) and 1211.40(c));
- UL 991 (The requirements apply to controls that employ solid-state devices and are intended for specified safety-related protective functions.)(§§ 1211.4(c), 1211.5(c) and 1211.40(d)(2));
- UL 1998 (These requirements apply to non-networked embedded microprocessor software whose failure is capable of resulting in a risk of fire, electric shock, or injury to persons.)(§§ 1211.8(f) and 1211.40(d)(3)); and
- UL 746C (These requirements cover parts made of polymeric materials that are used in electrical equipment and describe the various test procedures and their use in the testing of such parts and equipment.)(§§ 1211.10(d) and (e), 1211.12(c)(2), and 1211.40(d)(1)).

In addition, §§ 1211.6(c) and 1211.40(b) of the final rule adds a new incorporation by reference for ANSI/DASMA 102–2011. The NPR proposed incorporating ANSI/DASMA 102–2004 in § 1211.6(c) of the rule, but since publication of the NPR, DASMA has released a more recent version of the standard ANSI/DASMA 102–2011, dated May 19, 2011, on its Web site. The Commission is incorporating ANSI/DASMA 102–2011 instead of the ANSI/DASMA 102–2004 as proposed in the NPR because it is the most recent version of the standard and the one available on the DASMA Web site.

The OFR has regulations concerning incorporation by reference. 1 CFR part 51. The OFR revised these regulations to require that, for a final rule, agencies must discuss in the preamble, the ways that the materials the agency incorporates by reference are reasonably available to interested persons and how interested parties can obtain the materials. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(a).

In accordance with the OFR's requirements, this section and section C of this preamble summarize the provisions of the voluntary standards that the rule incorporates by reference:

- Specifications for Sectional Doors, ANSI/DASMA 102–2011, dated May 19, 2011. ANSI/DASMA 102–2011 is copyrighted. Copies may be obtained from the Door and Access Systems Manufacturers' Association, International, 1300 Sumner Avenue, Cleveland, OH 44115–2851, telephone (216) 241–7333, or online at: *http://www.dasma.com/PDF/Publications/Standards/ANSIDASMA102_2011.pdf.*
- National Electrical Code, NFPA 70, 2014 edition, effective August 21, 2013. NFPA 70 is copyrighted. Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269–9101, *http://www.nfpa.org/;* Telephone: (800) 344–3555.
- Standard for Safety for Tests for Safety-Related Controls Employing Solid-State Devices, UL 991, Third Edition, dated October 22, 2004.
- Standard for Safety for Software in Programmable Components, UL 1998, Third Edition, dated December 18, 2013.
- Standard for Safety for Polymeric Materials—Use in Electrical Equipment Evaluations, UL 746C, Sixth Edition, dated September 10, 2004.

The UL standards listed above are copyrighted. The UL standards may be obtained from UL, 151 Eastern Avenue, Bensenville, IL 60106, Telephone: 1–888–853–3503 or online at: *http://ulstandards.ul.com/.* One may also inspect a copy of all of the above-referenced standards at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, Telephone: (301) 504–7923.

E. Effective Date

The NPR proposed a 30-day effective date from the date of publication of the final rule in the **Federal Register** because the requirements for residential GDOs in UL 325, Sixth Edition are currently in effect. No comments were received regarding the effective date. Therefore, the effective date for the rule is May 9, 2016.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA") generally requires that agencies review proposed and final rules for the rules' potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603 and 604. The Commission certified that this rule will not have a significant impact on a substantial number of small entities pursuant to section 605(b) of the RFA, 5 U.S.C. 605(b) in the NPR. 80 FR 53036, 53039. The Commission did not receive any comments that questioned or challenged this certification, nor has CPSC staff received any other information that would require a change or revision to the Commission's previous analysis of the impact of the rule on small entities. Therefore, the certification of no significant impact on a substantial number of small entities is still appropriate.

G. Environmental Considerations

The Commission's regulations provide a categorical exclusion for Commission rules from any requirement to prepare an environmental assessment or an environmental impact statement because the rules "have little or no potential for affecting the human environment." 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required. The Commission's regulations state that safety standards for products normally have little or no potential for affecting the human environment. 16 CFR 1021.5(c)(1). Nothing in this rule alters that expectation.

H. Preemption

The Improvement Act contains a preemption provision that states: "those provisions of laws of States or political subdivisions which relate to the labeling of automatic residential garage door openers and those provisions which do not provide at least the equivalent degree of protection from the risk of injury associated with automatic residential garage door openers as the consumer product safety rule" are subject to preemption under 15 U.S.C. 2075. Public Law 101–608, section 203(f).

List of Subjects in 16 CFR Part 1211

Consumer protection, Imports, Incorporation by reference, Labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Commission amends 16 CFR part 1211 as follows:

PART 1211—SAFETY STANDARDS FOR AUTOMATIC RESIDENTIAL GARAGE DOOR OPERATORS

■ 1. The authority citation for part 1211 continues to read as follows:

Authority: Sec. 203 of Pub. L. 101–608, 104 Stat. 3110; 15 U.S.C. 2063 and 2065.

Subpart A—[Amended]

■ 2. Amend § 1211.2 by revising paragraph (c) to read as follows:

§ 1211.2 Definition.

* * * * *

(c) Is intended to be employed in ordinary locations in accordance with NFPA 70 (incorporated by reference, see § 1211.32).

■ 3. Amend § 1211.4 by revising paragraph (c) to read as follows:

§ 1211.4 General requirements for protection against risk of injury.

* * * * *

(c) An electronic or solid-state circuit that performs a back-up, limiting, or other function intended to reduce the risk of fire, electric shock, or injury to persons, including entrapment protection circuits, shall comply with the requirements in UL 991 (incorporated by reference, see § 1211.40), including environmental and stress tests appropriate to the intended usage of the end-product.

■ 4. Amend § 1211.5 by revising paragraphs (a)(1) and (6), (b) introductory text, and (b)(3) to read as follows:

§ 1211.5 General testing parameters.

(a) * * *

(1) With regard to electrical supervision of critical components, an operator being inoperative with respect to closing movement of the door meets the criteria for trouble indication.

* * * * *

(6) When a Computational Investigation is conducted, λ_p shall not be greater than 6 failures/10^6 hours for the entire system. For external secondary entrapment protection devices or systems that are sold separately, λ_p shall not be greater than 0 failures/10^6 hours. For internal secondary entrapment protection devices or systems whether or not they are sold separately, λ_p shall not be greater than 0 failures/10^6 hours. The operational test is conducted for 14 days. An external secondary entrapment protection device or system that is sold separately, and that has a λ_p greater than 0 failures/10^6 hours meets the intent of the requirement when for the combination of the operator and the specified external secondary entrapment protection device or system λ_p does not exceed 6 failures/10^6 hours. See § 1211.18(j) through (l).

* * * * *

(b) In the evaluation of entrapment protection circuits used in residential garage door operators, the critical condition flow chart shown in Figure 1 to subpart A shall be used:

* * * * *

(3) During the Power Cycling Safety for Tests in accordance with UL 991 (incorporated by reference, see § 1211.40).

■ 5. Revise § 1211.6 to read as follows:

§ 1211.6 General entrapment protection requirements.

(a) A residential garage door operator system shall be provided with inherent primary entrapment protection that complies with the requirements as specified in § 1211.7.

(b) In addition to the inherent primary entrapment protection as required by paragraph (a) of this section, a vertically moving residential garage door operator shall comply with one of the following:

(1) Shall be constructed to:

(i) Require constant pressure on a control intended to be installed and activated within line of sight of the door to lower the door;

(ii) Reverse direction and open the door to the upmost position when constant pressure on a control is removed prior to operator reaching its lower limit, and

(iii) Limit a portable transmitter, when supplied, to function only to cause the operator to open the door;

(2) Shall be provided with a means for connection of an external secondary entrapment protection device as described in §§ 1211.8, 1211.10, and 1211.11; or

(3)(i) Shall be provided with an inherent secondary entrapment protection device as described in §§ 1211.8(a), 1211.8(c), 1211.8(f), 1211.10, and 1211.12 and is:

(A) A combination sectional overhead garage door operator system as described in § 1211.6(c); and

(B) For use only with vertically moving garage doors.

(ii) With respect to § 1211.6(b)(3)(i)(A), trolley-driven operators do not meet the definition of a combination sectional overhead garage door operator system.

(c) In the case of a vertically moving combination sectional overhead garage door operator system, the door shall comply with the requirements in ANSI/DASMA 102 (incorporated by reference, see § 1211.40).

(d) In addition to the inherent primary entrapment protection as required by § 1211.6(a), a horizontally sliding residential garage door operator shall comply with one of the following:

(1) Shall be constructed to:

(i) Require constant pressure on a control to close the door;

(ii) Reverse direction and open the door a minimum of 2 in (50.8 mm) when constant pressure on a control is removed prior to operator reaching its position limit; and

(iii) Stop the door if a second obstruction is detected in the reverse direction.

(2) Shall be provided with a means for connection of an external secondary entrapment protection device for each leading edge as described in § 1211.8.

(e) A mechanical switch or a relay used in an entrapment protection circuit of an operator shall withstand 100,000 cycles of operation controlling a load no less severe (voltage, current, power factor, inrush and similar ratings) than it controls in the operator, and shall function normally upon completion of the test.

(f) In addition to complying with paragraph (e) of this section, in the event of a malfunction of a switch or relay (open or short) described in paragraph (c) of this section results in loss of any entrapment protection required by §§ 1211.7(a), 1211.7(b)(7), 1211.7(c)(7), 1211.8(a), or 1211.8(b), the door operator shall become inoperative at the end of the opening or closing operation, the door operator shall move the door to, and stay within, 1 foot (305 mm) of the uppermost position.

■ 6. Revise § 1211.7 to read as follows:

§ 1211.7 Inherent primary entrapment protection requirements.

(a) *General requirements.* A vertically moving residential garage door operator system shall be supplied with inherent primary entrapment protection that complies with the requirements as specified in paragraph (b) of this section. A horizontally sliding residential garage door operator system shall be supplied with inherent primary entrapment protection that complies with the requirements as specified in paragraph (c) of this section.

(b) *Inherent primary entrapment protection, vertically moving doors.* (1)(i) For a vertically moving residential garage door operator system, other than for the first 1 foot (305mm) of door travel from the full upmost position both with and without any secondary external entrapment protection device functional, the operator of a downward moving residential garage door shall initiate reversal of the door within 2 seconds of contact with the obstruction as specified in subparagraph (b)(3) of this section. After reversing the door, the operator shall return the door to, and stop at, the full upmost position. Compliance shall be determined in accordance with paragraphs (b)(3) through (10) of this section.

(ii) The door operator is not required to return the door to, and stop the door at, the full upmost position when the operator senses a second obstruction during the upward travel.

(iii) The door operator is not required to return the door to, and stop the door at, the full upmost position when a control is actuated to stop the door during the upward travel—but the door can not be moved downward until the operator reverses the door a minimum of 2 inches (50.8 mm).

(2) The test shall be performed on a representative operating system installed in accordance with the manufacturer's installation instructions with the operator exerting a 25-lbf (111.21–N) pull or its rated pull, whichever is greater.

(3)(i) A solid object is to be placed on the floor of the test installation and at various heights under the edge of the door and located in line with the driving point of the operator. When tested on the floor, the object shall be 1 inch (25.4 mm) high. In the test installation, the bottom edge of the door under the driving force of the operator is to be against the floor when the door is fully closed.

(ii) For operators other than those attached to the door, a solid object is not required to be located in line with the driving point of the operator. The solid object is to be located at points at the center, and within 1 foot of each end of the door.

(iii) To test operators for compliance with requirements in paragraphs (b)(1)(iii), (b)(7)(iii), and (b)(8)(iii) of this section and § 1211.13(c), a solid rectangular object measuring 4 inches (102 mm) high by 6 inches (152 mm) wide by a minimum of 6 inches (152 mm)long is to be placed on the floor of the test installation to provide a 4-inch (102 mm) high obstruction when operated from a partially open position.

(4) An operator is to be tested for compliance with paragraph (b)(1) of this section for 50 open-and-close cycles of operation while the operator is connected to the type of residential garage door with which it is intended to be used or with the doors specified in paragraph (b)(6) of this section. For an operator having a force adjustment on the operator, the force is to be adjusted to the maximum setting or at the setting that represents the most severe operating condition. Any accessories having an effect on the intended operation of entrapment protection functions that are intended for use with the operator, are to be attached and the test is to be repeated for one additional cycle.

(5) For an operator that is to be adjusted (limit and force) according to instructions supplied with the operator, the operator is to be tested for 10 additional obstruction cycles using the solid object described in paragraph (b)(3) of this section at the maximum setting or at the setting that represents the most severe operating condition.

(6) For an operator that is intended to be used with more than one type of door, one sample of the operator is to be tested on a sectional door with a curved track and one sample is to be tested on a one-piece door with jamb hardware and no track. For an operator that is not intended for use on either or both types of doors, a one-piece door with track hardware or a one-piece door with pivot hardware shall be used for the tests. For an operator that is intended for use with a specifically dedicated door or doors, a representative door or doors shall be used for the tests. See the marking requirements at § 1211.18.

(7)(i) An operator, employing an inherent entrapment protection system that measures or monitors the actual position of the door, shall initiate reversal of the door and shall return the door to, and stop the door at, the full upmost position in the event the inherent door operating "profile" of the door differs from the originally set parameters. The entrapment protection system shall measure or monitor the position of the door at increments not greater than 1 inch (25.4 mm).

(ii) The door operator is not required to return the door to, and stop the door at, the full upmost position when an inherent entrapment circuit senses an obstruction during the upward travel.

(iii) The door operator is not required to return the door to, and stop the door at, the full upmost position when a control is actuated to stop the door during the upward travel—but the door can not be moved downward until the operator reverses the door a minimum of 2 inches (50.8 mm).

(8)(i) An operator, using an inherent entrapment protection system that does not measure or monitor the actual position of the door, shall initiate reversal of the door and shall return the door, to and stop the door at the full upmost position, when the lower limiting device is not actuated in 30 seconds or less following the initiation of the close cycle.

(ii) The door operator is not required to return the door to, and stop the door at, the full upmost position when an inherent entrapment circuit senses an obstruction during the upward travel. When the door is stopped manually during its descent, the 30 seconds shall be measured from the resumption of the close cycle.

(iii) The door operator is not required to return the door to, and stop the door at, the full upmost position when a control is actuated to stop the door during the upward travel—but the door can not be moved downward until the operator reverses the door a minimum of 2 inches (50.8 mm). When the door is stopped manually during its descent, the 30 seconds shall be measured from the resumption of the close cycle.

(9) To determine compliance with paragraph (b)(7) or (8) of this section, an operator is to be subjected to 10 open-and-close cycles of operation while connected to the door or doors specified in paragraphs (b)(4) and (6) of this section. The cycles are not required to be consecutive. Motor cooling-off periods during the test meet the intent of the requirement. The means supplied to comply with the requirement in paragraph (b)(1) of this section and § 1211.8(a) or (b) are to be defeated during the test. An obstructing object is to be used so that the door is not capable of activating a lower limiting device.

(10) During the closing cycle referred to in paragraph (b)(9) of this section, the system providing compliance with paragraphs (b)(1) and (7) of this section or paragraphs (b)(1) and (8) of this section shall function regardless of a short- or open-circuit anywhere in any low-voltage external wiring, any external entrapment devices, or any other external component.

(c) *Inherent primary entrapment protection, horizontally sliding doors.* (1)(i) For a horizontally sliding residential garage door operator system, other than for the first 1 foot (305mm) of door travel from the full closed position both with and without any external entrapment protection device functional, the operator of a closing residential garage door shall initiate reversal of the door within 2 seconds of contact with the obstruction as specified in paragraph (c)(3) of this section. After reversing the door, the operator shall open the door a minimum of 2 inches (50.8 mm) from the edge of the obstruction. Compliance shall be determined in accordance with paragraphs (c)(2) through (10) of this section.

(ii) The door operator is not required to open the door a minimum 2 inches (50.8 mm) when the operator senses a second obstruction during the closing direction of travel.

(iii) The door operator is not required to open the door a minimum 2 inches (50.8 mm) when a control is actuated to stop the door during movement towards the open position—but the door can not be moved towards the open position until the operator reverses the door a minimum of 2 inches (50.8 mm).

(2) The test shall be performed on a representative operating system installed in accordance with the manufacturer's installation instructions with the operator exerting a 25-lbf (111.21–N) pull or its rated pull, whichever is greater.

(3)(i) A solid object is to be placed on the floor of the test installation and rigidly supported within the bottom track and then repeated with the solid object placed on the floor and rigidly supported external to the track. The test shall then be repeated with the solid object rigidly supported at heights of 1 ft (305 mm), 3 ft (914 mm), 5 ft (1524 mm), and within 1 ft (305 mm) of the top edge. The object shall be 1 inch (25.4 mm) in width.

(ii) For operators other than those attached to the door, a solid object is not required to be located in line with the driving point of the operator. The solid object is to be located at points at the center and within 1 ft of each end of the door opening.

(iii) To test operators for compliance with paragraphs (c)(1)(iii), (c)(7)(iii), and (c)(8)(iii) of this section, and § 1211.13(c), a solid rectangular object measuring 4 inches (102 mm) high by 6 inches (152 mm) wide by a minimum of 6 in (152 mm) long is to be placed on the floor of the test installation to provide a 4 in (102 mm) high obstruction when operated from a partially open position with the test repeated with the bottom edge of the obstruction rigidly supported at heights of 1 ft (305 mm), 3ft (914 mm), 5ft (1524 mm), and within 1 ft (305 mm) of the top edge.

(4) An operator is to be tested for compliance with paragraph (c)(1) of this section for 50 open-and-close cycles of operation while the operator is connected to the type of residential garage door with which it is intended to be used or with the doors specified in paragraph (c)(6) of this section. For an operator having a force adjustment on the operator, the force is to be adjusted to the maximum setting or at the setting that represents the most severe operating condition. Any accessories having an effect on the intended operation of entrapment protection functions that are intended for use with the operator, are to be attached and the test is to be repeated for one additional cycle.

(5) For an operator that is to be adjusted (limit and force) according to instructions supplied with the operator, the operator is to be tested for 10 additional obstruction cycles using the solid object described in paragraph (c)(3) of this section at the maximum setting or at the setting that represents the most severe operating condition.

(6) For an operator that is intended to be used with more than one type of door, one sample of the operator is to be tested on a sectional door with a curved track and one sample is to be tested on a one-piece door with jamb hardware and no track. For an operator that is not intended for use on either or both of these types of doors, a one-piece door with track hardware or a one-piece door with pivot hardware shall be used for the tests. For an operator that is intended for use with a specifically dedicated door or doors, a representative door or doors shall be used for the tests. See the marking requirements in § 1211.18.

(7)(i) An operator, employing an inherent entrapment protection control that measures or monitors the actual position of the door, shall initiate reversal of the door and shall return the door to, and stop the door at, the fully closed position in the event the inherent door operation "profile" of the door differs from the originally set parameters. The system shall measure or monitor the position of the door at increments not greater than 1 inch (25.4 mm).

(ii) The door operator is not required to open the door a minimum 2 inches (50.8 mm) when an inherent entrapment circuit senses an obstruction during the reversing travel.

(iii) The door operator is not required to open the door a minimum 2 inches (50.8 mm) when a control is actuated to stop the door during the opening direction—but the door can not be moved in the closing direction until the operator reverses the door a minimum of 2 inches (50.8 mm).

(8)(i) An operator, using an inherent entrapment protection system that does not measure or monitor the actual position of the door, shall initiate reversal of the door and shall open the door a minimum 2 inches (50.8 mm) when the closed position limit device is not actuated within 30 seconds or less following the initiation of the close cycle.

(ii) The door operator is not required to open the door a minimum 2 inches (50.8 mm) when an inherent entrapment circuit senses an obstruction during the reversing travel.

(iii) The door operator is not required to open the door a minimum 2 inches (50.8 mm) when a control is actuated to stop the door during the opening direction—but the door can not be moved in the closing direction until the operator has reversed the door a minimum of 2 inches (50.8 mm). When the door is stopped manually during its closing, the 30 seconds shall be measured from the resumption of the close cycle.

(9) To determine compliance with paragraph (c)(7) or (8) of this section, an operator is to be subjected to 10 open-and-close cycles of operation while connected to the door or doors specified in paragraphs (c)(4) and (6) of this section. The cycles are not required to be consecutive. Motor cooling-off periods during the test meet the intent of the requirement. The means supplied to comply with paragraph (c)(1) of this section and § 1211.8(b) are to be inoperative or defeated during the test. An obstructing object is to be used so that the door is not capable of activating a position limiting device.

(10) During the closing cycle referred to in paragraph (c)(9) of this section, the system providing compliance with paragraphs (c)(1) and (7) of this section or paragraphs (c)(1) and (8) of this section shall function regardless of a short- or open-circuit anywhere in any low-voltage external wiring, any external entrapment devices, or any other external component.

■ 7. Revise § 1211.8 to read as follows:

§ 1211.8 Secondary entrapment protection requirements.

(a)(1) For a vertically moving door operator, a secondary entrapment protection device supplied with, or as an accessory to, an operator shall consist of:

(i) An external photoelectric sensor that when activated results in an operator that is closing a door to reverse direction of the door, returns the door to, and stops the door at the fully open position, and the sensor prevents an operator from closing an open door,

(ii) An external edge sensor installed on the edge of the door that, when activated results in an operator that is closing a door to reverse direction of the door, returns the door to, and stops the door at the fully open position, and the sensor prevents an operator from closing an open door,

(iii) An inherent door sensor independent of the system used to comply with § 1211.7 that, when activated, results in an operator that is closing a door to reverse direction of the door and the sensor prevents an operator from closing an open door, or

(iv) Any other external or internal device that provides entrapment protection equivalent to paragraph (a)(1)(i), (ii), or (iii) of this section.

(2) The door operator is not required to return the door to, and stop the door at, the fully open position when an inherent entrapment circuit senses an obstruction during the opening travel.

(3) The door operator is not required to return the door to, and stop the door at, the fully open position when a control is actuated to stop the door during the opening travel—but the door cannot be moved towards the closing direction until the operator has reversed the door a minimum of 2 inches (50.8 mm).

(b) For horizontal sliding garage door operators, a secondary entrapment protection device supplied with, or as an accessory to, an operator shall consist of:

(1) An external photoelectric sensor that, when activated, results in an operator that is closing or opening a door to reverse direction of the door for a minimum of 2 inches (50.8 mm); or

(2) An external edge sensor installed on the edge of the door that, when activated, results in an operator that is closing or opening a door to reverse direction of the door for a minimum of 2 inches (50.8 mm).

(c) With respect to paragraphs (a) and (b) of this section, the operator shall monitor for the presence and correct operation of the device at least once during each close cycle. Should the device not be present or a fault condition occurs which precludes the sensing of an obstruction, including an interruption of the wireless signal to the wireless device or an open or short circuit in the wiring that connects an external entrapment protection device to the operator and device's supply source, the operator shall be constructed such that:

(1) For a vertically moving door, the closing door shall open and an open door shall not close more than 1 foot (305 mm) below the upmost position;

(2) For a horizontally sliding door, the door shall not move in the opening or closing direction; or

(3) The operator shall function as required by § 1211.6(b)(1).

(d) An external entrapment protection device or system, when employing a wireless control, shall comply with paragraph (e) of this section when installed at its farthest distance from the operator as recommended in the installation instructions.

(e) An external entrapment protection device shall comply with the applicable requirements in §§ 1211.10, 1211.11, and 1211.12.

(f) An inherent secondary entrapment protection device described in § 1211.6(b)(3) shall comply with the applicable requirements in § 1211.13. Software used in an inherent entrapment protection device shall comply with UL 1998 (incorporated by reference, see § 1211.40).

■ 8. Amend § 1211.9 by revising paragraphs (a), (b)(2), and (c) to read as follows:

§ 1211.9 Additional entrapment protection requirements.

(a) A means to manually detach the door operator from the door shall be supplied. The gripping surface (handle) shall be colored red and shall be easily distinguishable from the rest of the operator. It shall be capable of being adjusted to a height of 6 feet (1.8 m) above the garage floor when the operator is installed according to the instructions specified in § 1211.16(a)(2). The means shall be constructed so that a hand firmly gripping it and applying a maximum of 50 pounds (223 N) of force shall detach the operator with the door obstructed in the down position. The obstructing object, as described in § 1211.7(b)(3)(i), is to be located in several different positions. A marking with instructions for detaching the operator shall be provided as required by § 1211.17(a), (b), and (j), as applicable.

(b) * * *

(2) The door is capable of being moved to the 2-inch (50.8-mm) point from any position between closed and the 2-inch (50.8-mm) point.

(c) Actuation of a control that initiates movement of a door shall stop and may reverse the door on the closing cycle. On the opening cycle, actuation of a control shall stop the door but not reverse it.

* * * * *

■ 9. Revise § 1211.10 to read as follows:

§ 1211.10 Requirements for all entrapment protection devices.

(a) *General requirements.* (1) An external entrapment protection device shall perform its intended function when tested in accordance with paragraphs (a)(2) through (4) of this section.

(2) The device is to be installed in the intended manner and its terminals connected to circuits of the door operator as indicated by the installation instructions.

(3) The device is to be installed and tested at minimum and maximum heights and widths representative of recommended ranges specified in the installation instructions. For doors, if not specified, devices are to be tested on a minimum 7 foot (2.1 m) wide door and maximum 20 foot (6.1 m) wide door.

(4) If powered by a separate source of power, the power-input supply terminals are to be connected to supply circuits of rated voltage and frequency.

(5) An external entrapment protection device requiring alignment, such as a photoelectric sensor, shall be provided with a means, such as a visual indicator, to show proper alignment and operation of the device.

(b) *Current protection test.* (1) There shall be no damage to the entrapment protection circuitry if low voltage field-wiring terminals or leads are shortened or miswired to adjacent terminals.

(2) To determine compliance with paragraph (b)(1) of this section, an external entrapment protection device is to be connected to a door operator or other source of power in the intended manner, after which all connections to low voltage terminals or leads are to be reversed as pairs, reversed individually, or connected to any low voltage lead or adjacent terminal.

(3) After restoring the connections in the intended manner:

(i) A photoelectric sensor shall comply with the Normal Operation tests per § 1211.11(a) through (c); and

(ii) An edge sensor shall comply with the Normal Operation test, per § 1211.12(a).

(c) *Splash test.* (1) An external entrapment protection device intended to be installed inside a garage 3 feet or less above the floor shall withstand a water exposure as described in paragraph (c)(2) of this section without resulting in a risk of electric shock and shall function as intended, per paragraph (c)(3) of this section. After exposure, the external surface of the device may be dried before determining its functionality.

(2) External entrapment protection devices are to be indirectly sprayed using a hose having the free end fitted with a nozzle as illustrated in Figure 2 to subpart A and connected to a water supply capable of maintaining a flow rate of 5 gallons (19 liters) per minute as measured at the outlet orifice of the nozzle. The water from the hose is to be played, from all sides and at any angle against the floor under the device in such a manner most likely to cause water to splash the enclosure of electric components. However, the nozzle is not to be brought closer than 10 feet (3.05

m) horizontally to the device. The water is to be sprayed for 1 minute.

(3) After drying the external surface of the device:

(i) A photoelectric sensor shall comply with the Normal Operation Tests per § 1211.11(a) through (c); and

(ii) An edge sensor shall comply with the Normal Operation Test, per § 1211.12(a).

(iii) There shall be no water on uninsulated live parts of a line voltage circuit.

(d) *Ultraviolet light exposure test.* A polymeric material used as a functional part of a device that is exposed to outdoor weather conditions shall comply with the Ultraviolet Light Exposure Test described in UL 746C (incorporated by reference, see § 1211.40).

(e) *Resistance to impact test.* (1) An external entrapment protection device employing a polymeric or elastomeric material as a functional part shall be subjected to the impact test specified in paragraph (e)(2) of this section. As a result of the test:

(i) There shall be no cracking or breaking of the part; and

(ii) The part shall operate as intended, per paragraph (e)(4) of this section, or, if dislodged after the test, is capable of being restored to its original condition.

(2) Samples of the external entrapment protection device are to be subjected to the Resistance to Impact Test described in UL 746C (incorporated by reference, see § 1211.40). The external entrapment protection device is to be subjected to 5 foot-pound (6.8 J) impacts. Three samples are to be tested, each sample being subjected to three impacts at different points.

(3) In lieu of conducting the room temperature test described in paragraph (e)(2) of this section, each of three samples of a device exposed to outdoor weather when the door is the closed position are to be cooled to a temperature of minus 31.0 ± 3.6 °F (minus 35.0 ± 2.0 °C) and maintained at this temperature for 3 hours. Three samples of a device employed inside the garage are to be cooled to a temperature of 32.0 °F (0.0 °C) and maintained at this temperature for 3 hours. While the sample is still cold, the samples are to be subjected to the impact test described in paragraph (e)(1) of this section.

(4) To determine compliance with paragraph (e)(1)(ii) of this section:

(i) A photoelectric sensor shall comply with the Normal Operation tests per § 1211.11(a) through (c); and

(ii) An edge sensor shall comply with the Normal Operation Test, per § 1211.12(a).

(f) *External entrapment protection devices with wireless control*—(1) *Initial test set-up.* (i) For a wireless device intended to be powered by a non-rechargeable battery, a fully charged battery shall be installed per the instructions or markings on the product. See § 1211.16 (a)(7).

(ii) An entrapment protection device or system employing a wireless control, or separately supplied for, shall be installed per the manufacturer's instructions.

(2) *Radiated immunity test.* (i) An external entrapment protection device when employing wireless control shall operate as specified in § 1211.8(a) through (e) as applicable; or is rendered inoperative (any case in which the operator will not complete a full cycle, open and close, of travel) when tested in accordance with paragraph (f)(2)(ii) of this section.

(ii) Compliance to paragraph (f)(2)(i) of this section is verified by simulating an obstruction during the period of the electric field strength test of § 1211.4(c).

(g) *Battery test for wireless devices.* (1) An external entrapment protection device when employing a battery powered wireless control shall operate as specified in § 1211.8(a) through (e) as applicable; or is rendered inoperative (any case in which the operator will not complete a full cycle, open and close, of travel) when tested in accordance with paragraph (g)(2) of this section.

(2) Compliance with paragraph (g)(1) of this section shall be verified with battery charge at the following levels:

(i) Fully charged; and

(ii) Discharged per the manufacturer's recommendations to the wireless device's lowest operational voltage.

(3) An external entrapment protection device employing a battery powered wireless device operating under conditions with a fully discharged battery or when the battery is discharged sufficiently to cause the device or system to render the moving door inoperative, shall be considered a single point fault for complying with §§ 1211.5(b) and 1211.8(c).

(h) *Ambient light test for wireless device with IR communication.* (1) An external entrapment protection device, when employing an IR communication shall operate as specified in § 1211.8(a) through (e) as applicable; or is rendered inoperative (any case in which the operator will not complete a full cycle, open and close, of travel) when subjected to ambient light impinging at an angle of 15 to 20 degrees from the axis of the beam when tested in accordance with paragraph (h)(2) of this section.

(2) An external entrapment protection device when employing an IR communication shall be set up at maximum range per paragraph (h)(1) of this section. The ambient light test described in § 1211.11(e)(2) shall be conducted with the light source impinging on each IR receiver, one at a time that is part of the wireless control system between the external entrapment protection device and the operator.

■ 10. Revise § 1211.11 to read as follows:

§ 1211.11 Requirements for photoelectric sensors.

(a) *Normal operation test.* When installed as described in § 1211.10(a)(1) through (4), a photoelectric sensor of a vertically moving door shall sense an obstruction as described in paragraph (c) of this section that is to be placed on the floor at three points over the width of the door opening, at distances of 1 foot (305 mm) from each end and the midpoint.

(b) *Normal operation test—Horizontally moving door.* When installed as described in § 1211.10(a)(1) through (4), a photoelectric sensor of a horizontally moving door shall be tested per paragraph (c) of this section that is to be placed on a level surface within the path of the moving door. The sensor is to be tested with the obstruction at a total of five different locations over the height of the door or gate opening. The locations shall include distances 1 in (25.4 mm) from each end, 1 ft (305 mm) from each end, and the midpoint.

(c) *Normal operation test—Obstruction.* The obstruction noted in paragraphs (a) and (b) of this section shall consist of a white vertical surface 6 inches (152 mm) high by 12 inches (305 mm) long. The obstruction is to be centered in the opening perpendicular to the plane of the door when in the closed position. See Figure 3 to subpart A.

(d) *Sensitivity test.* (1) When installed as described in § 1211.10(a)(1) through (4), a photoelectric sensor shall sense the presence of a moving object when tested according to paragraph (d)(2) of this section.

(2) The moving object is to consist of a 1⅞ inch (47.6 mm) diameter cylindrical rod, 34½ inches (876 mm) long, with the axis point being 34 inches (864 mm) from the end. The axis point is to be fixed at a point centered directly above the beam of the photoelectric sensor 36 inches (914 mm) above the floor. The photoelectric sensor is to be mounted at the highest position as recommended by the manufacturer. The rod is to be swung as a pendulum through the photoelectric sensor's beam

from a position 45 degrees from the plane of the door when in the closed position. See Figure 4 to subpart A.

(3) The test described in paragraph (d)(2) of this section is to be conducted at three points over the width of the door opening, at distances of 1 foot (305 mm) from each end and the midpoint.

(4) When the test fixture of Figure 4 to subpart A, prior to conduct of the test, interferes with the photoelectric sensor detection zone, the tests per paragraphs (d)(1) through (4) of this section may be conducted instead per paragraph (f)(4) of this section.

(e) *Ambient light test.* (1) A photoelectric sensor shall operate as specified in § 1211.8(a) and (c) when subjected to ambient light impinging at an angle of 15 to 20 degrees from the axis of the beam when tested according to paragraph (e)(2) of this section and, if appropriate, paragraph (e)(3) of this section.

(2) To determine compliance with paragraph (e)(1) of this section, a 500 watt incandescent or equivalent minimum rated, 3600K or lower color rated flood lamp is to be energized from a 120-volt, 60-hertz source. The lamp is to be positioned 5 feet from the front of the receiver and aimed directly at the sensor at an angle of 15 to 20 degrees from the axis of the beam. See Figure 5 to subpart A.

(3) If the photoelectric sensor uses a reflector, this test is to be repeated with the lamp aimed at the reflector.

(4) During the test conditions described in paragraphs (e)(2) and (e)(3) of this section, a photoelectric sensor shall comply with the normal operation test requirements described in paragraph (a) of this section, and

(i) A photoelectric sensor shall comply with sensitivity test requirements described in paragraph (d) of this section, and

(ii) An edge sensor shall comply with the normal operation test requirements described in § 1211.12.

(f) *Photoelectric sensor vertical arrays* (1) A vertical array shall be tested as required by paragraphs (a) through (e) of this section, except as noted in paragraphs (f)(2) through (5) of this section.

(2) The array shall comply with the Normal Operation tests specified in paragraphs (a) through (c) of this section, with the solid obstruction placed on the floor. In addition, the obstruction shall be placed at various locations over the height of the light curtain array in accordance with the light curtain coverage area per the manufacturer's instructions.

(3) In conducting the tests specified in paragraphs (a) through (c) of this section, when the product includes a blanking function whereby the light array is located directly in-line with the path of the door travel, and the door system is intended to detect any obstruction other than one in the "next" successive position that the door is programmed to travel, the obstruction is placed at any location other than the next successive door position expected by the system.

(4) The array shall comply with the Sensitivity Test specified in paragraph (d) of this section, except that the edge of the pendulum nearest to the array is to be located 2 in. (50.8 mm) from one side of the plane of the array, rather than directly above one photoelectric sensor pair. For vertical arrays, this test need only be conducted with the test pendulum at the vertical height indicated in paragraph (d)(2) of this section.

(5) When conducting the Ambient Light Test specified in paragraph (e) of this section, the position of the light source shall be aligned per paragraph (e)(2) of this section based on the axis of the lowest beam or detection zone. This arrangement shall be used to determine compliance with the requirements specified in paragraph (f)(2) of this section (with the obstruction at the floor level) and paragraph (f)(4) of this section, which are the only conditions for which the ambient light is required to be applied.

■ 11. Amend § 1211.12 by revising paragraphs (a)(1), (c)(1) and (2), and (d) to read as follows:

§ 1211.12 Requirements for edge sensors.

(a) * * *

(1) When installed on a representative residential door edge, an edge sensor shall actuate upon the application of a 15 pounds (66.7 N) or less force in the direction of the application. For an edge sensor intended to be used on a sectional door, the force is to be applied by the longitudinal edge of a 1⅞ inch (47.6 mm) diameter cylinder placed across the switch so that the axis is perpendicular to the plane of the door. For an edge sensor intended to be used on a one piece door, the force is to be applied so that the axis is at an angle 30 degrees from the direction perpendicular to the plane of the door. See Figure 6 to subpart A.

* * * * *

(c) * * *

(1) An elastomeric material used as a functional part of an edge sensor shall function as intended when subjected to:

(i) Accelerated Aging Test of Gaskets, stated in paragraph (c)(3) of this section,

(ii) Compliance to the Standard for Gaskets and Seals, UL 157, fulfills this requirement (see paragraph (c)(2) of this section for UL contact information); and

(iii) Puncture Resistance Test, stated in paragraph (d) of this section.

(2) An elastomeric material used for a functional part that is exposed to outdoor weather conditions when the door is in the closed position shall have physical properties as specified in the Table to subpart A after being conditioned in accordance with the Ultraviolet Light Exposure Test described in UL 746C (incorporated by reference, see § 1211.40).

* * * * *

(d) *Puncture resistance test.* (1) After being subjected to the tests described in paragraph (d)(2) or (3) of this section, an elastomeric material that is a functional part of an edge sensor shall:

(i) Not be damaged in a manner that would adversely affect the intended operation of the edge sensor, and

(ii) Maintain enclosure integrity if it serves to reduce the likelihood of contamination of electrical contacts.

(2) For a vertically moving door, a sample of the edge sensor is to be installed in the intended manner on a representative door edge. The probe described in Figure 7 to subpart A is to be applied with a 20 pound-force (89N) to any point on the sensor that is 3 inches (76 mm) or less above the floor is to be applied in the direction specified in the Edge Sensor Normal Operation Test, Figure 6 to subpart A. The test is to be repeated on three locations on each surface of the sensor being tested.

(3) For horizontally sliding doors, sample of the edge sensor is to be installed in the intended manner on a representative door edge. The probe described in Figure 7 to subpart A is to be applied with a 20 lbf (89 N) to any point on the sensor when the door is within 3 in (76 mm) of its fully open position and within 3 in (76 mm) of any stationary wall. For each type of door, the force is to be applied in the direction specified in the Edge Sensor Normal Operation Test, Figure 6 to subpart A. The test is to be repeated on three locations on each surface of the sensor being tested.

■ 13. Revise § 1211.13 to read as follows:

§ 1211.13 Inherent force activated secondary door sensors.

(a) *General.* (1) A force activated door sensor of a door system installed according to the installation instructions shall actuate in accordance with paragraphs (b) through (f) of this section, which are to be conducted in sequence on a single system sample, except for the separate test sequences of paragraph (a)(2) of this section.

(2) The system shall actuate with the maximum and minimum specifications of the door, operator, and hardware.

(3) Tests conducted per paragraphs (b) through (f) of this section shall be performed with the force exerted by a drive adjusted to its highest value if the force can be adjusted by the user during use or user maintenance.

(4) The test cylinder referred to in paragraph (b)(7) of this section shall be a 1⅞ in (47.6 mm) diameter cylinder placed under the door so that the axis is perpendicular to the plane of the door. See Figure 6 to subpart A.

(5) The measuring device referred to in paragraph (b)(1) of this section shall:

(i) Have an accuracy of +/−1%;

(ii) Have a rise and fall time not exceeding 5 ms;

(iii) Have the equivalence of a spring constant of 2855 lb/in +/−285 lb/in (500 N/mm, +/−50 N/mm);

(iv) Be placed on a rigid, level surface; and

(v) Have a rigid plate with a diameter of 3.1 in (80 mm).

(vi) See paragraph (a)(6) of this section for test equipment alternatives for force measurements at 1 ft (305 mm) or greater for the tests conducted per paragraphs (b) and (d) of this section.

(6) With regard to the alternative test equipment referred to in paragraph (a)(5)(vi) of this section, the test device described in paragraph (b)(5) of this section for force measurements at 1 foot (305 mm) or greater shall be:

(i) A spring constant means such as specified in paragraph (a)(5) of this section;

(ii) A gravity based weight displacing means that suspends a weight off its supporting surface upon exceeding 15 lbf (67 N) such as the example shown in figures 8 through 10 of this subpart if the equipment described in paragraph (a)(5) of this section is applied before the tests specified in paragraph (c) of this section and after the tests specified in paragraph (d) of this section at the 1 ft (305 mm) height specified in paragraph (b)(6) of this section; or

(iii) The equivalent requirements of paragraphs (a)(6)(i) or (ii) of this section.

(7) The cycles specified in paragraph (d) of this section are not required to be consecutive. Continuous operation of the motor without cooling is not required.

(b) *Closing force test.* (1) The door shall stop and reverse within 2 seconds after contacting the obstruction. The door shall apply the following forces at the locations noted in paragraph (b)(2) of this section:

(i) 90 lbf (400 N) or less average during the first 0.75 seconds after 15 lbf (67 N) is exceeded from initial impact; and

(ii) 15 lbf (67 N) or less from 0.75 seconds after 15 lbf (67 N) is exceeded from initial impact until the door reverses.

(2) The test referred to in paragraph (b)(1) of this section shall be conducted at the following test height and locations along the edge of the door:

(i) The center point, at a height of 2 in (50.8) from the floor;

(ii) Within 1 ft (305 mm) of the end of the door, at a height of 2 in (50.8) from the floor; and

(iii) Within 1 ft (305 mm) of the other end of the door, at a height of 2 in (50.8) from the floor.

(3) The maximum force specified in paragraph (b)(1) of this section shall be tested by the door applying a force against the longitudinal edge of the test cylinder described in paragraph (a)(4) of this section.

(4) The equipment used to measure force for the test described in paragraph (b)(1) of this section shall be in accordance with the requirements of paragraph (a)(5) of this section.

(5) The door shall stop and reverse within 2 seconds after contacting the obstruction. The door shall apply a load of 15 lbf (67 N) or less in the closing direction along the path of door travel at the locations noted in paragraph (b)(6) of this section.

(6) The test described in paragraph (b)(5) of this section shall be conducted at the following points along the edge of the door:

(i) At the center at heights of 1 ft, 3 ft, and 5 ft (305 mm, 914 mm and 1.52 m) from the floor;

(ii) Within 1 ft (305 mm) of the end of the door, at heights of 1 ft, 3 ft, and 5 ft from the floor; and

(iii) Within 1 ft of the other end of the door at heights of 1 ft, 3 ft, and 5 ft from the floor.

(7) The maximum force described in paragraph (b)(5) of this section shall be tested by the door applying a force against the longitudinal edge of the test cylinder as described in paragraph (a)(4) of this section.

(8) The equipment used to measure forces for the test described in paragraph (b)(1) of this section shall be in accordance with the requirements of paragraph (a)(5) or (6) of this section.

(c) *Opening force test.* (1) The door shall stop within 2 seconds after a weight of 44 lb (20 kg) is applied to the door.

(2) The test described in paragraph (c)(1) of this section shall be conducted with the door starting from the fully closed position and at heights of approximately 1 ft, 3 ft, and 5 ft (305 mm, 914 mm and 1.52 m) from the floor.

(3) Test weight(s) shall be applied to sections of the door that are vertical in the initial stopped position for each test height prior to operator activation.

(d) *Fifty cycle test.* (1) With the door(s) at the test point(s) determined by the tests described in paragraphs (b) and (c) of this section to be most severe with respect to both reversal time and force, the door system shall function as intended after 50 cycles of operation. After the last cycle, the system shall complete one additional cycle of opening the door to its fully open condition and closing the door to its fully closed position.

(2) The tests described in paragraphs (b) and (c) of this section shall be repeated upon completion of cycling test.

(e) *Adjustment of door weight.* At the point determined by the test described in paragraph (b)(5) of this section to be the most severe, weight is to be added to the door in 5.0 pound (2.26 Kg) increments and the tests of paragraphs (b) and (c) of this section are to be repeated until a total of 15.0 pounds (66.72 N) has been added to the door. Before performing each test cycle, the door is to be cycled 2 times to update the profile. Similarly, starting from normal weight plus 15.0 pounds, the tests described in paragraphs (b) and (c) of this section are to be repeated by subtracting weight in 5.0 pound increments until a total of 15.0 pounds has been subtracted from the door.

(f) *Obstruction test.* For a door traveling in the downward direction, when an inherent secondary entrapment protection device senses an obstruction and initiates a reversal, any control activation shall not move the door downward until the operator reverses the door a minimum of 2 inches (50.8 mm). The test is to be performed as described in § 1211.7(b)(3)(iii). The system may be initially manually re-profiled for the purpose of this test.

§§ 1211.14 through 1211.17 [Redesignated as §§ 1211.16 through 1211.19]

■ 13. Redesignate §§ 1211.14 through 1211.17 as §§ 1211.16 through 1211.19 respectively.

■ 14. Add new § 1211.14 to read as follows:

§ 1211.14 Unattended operation requirements.

(a) *General requirements.* (1) A residential garage door operator or system may permit unattended operation to close a garage door, provided the operator system complies with the additional requirements of paragraphs (b) through (e) of this section.

(2) Unattended operation shall not be permitted on one-piece garage doors or swinging garage doors. An operator intended for use with both sectional doors and one-piece or swinging doors that have an unattended operation close feature shall identify that the unattended operation closing feature is only permitted to be enabled when installed with a sectional door by complying with:

(i) The installation instructions stated in § 1211.16(b)(1)(ii);

(ii) The markings specified in § 1211.17(h); and

(iii) The carton markings specified in § 1211.18(m) when the carton references the unattended operation close feature.

(b) *Operator system.* The operator system shall require one or more intentional actions to enable unattended operation, such as setting a power head switch or wall-control switch. For an accessory requiring installation and set-up in order to enable unattended operation, the installation and set-up may be considered satisfying this requirement.

(c) *Alarm signal.* (1) The operator system shall provide an audible and visual alarm signal.

(2) The alarm shall signal for a minimum of 5 seconds before any unattended closing door movement.

(3) The audible signal shall be heard within the confines of a garage. The audio alarm signals for the alarm specified in paragraph (c)(1) of this section shall be generated by devices such as bells, horns, sirens, or buzzers. The signal shall have a frequency in the range of 700 to 3400 Hz, either a cycle of the sound level pulsations of 4 to 5 per second or one continuous tone, a sound level at least 45 dB 10 ft (305 cm) in front of the device over the voltage range of operation.

(4) The visual alarm signal described in paragraph (c)(1) of this section shall be visible within the confines of a garage using a flashing light of at least 40 watt incandescent or 360 lumens.

(d) *Controls.* (1) During the pre-motion signaling period defined in paragraph (c)(2) of this section, activation of any user door control (*e.g.,* wall control, wireless remote, keypad) shall prevent the pending unattended door movement. Door movement resulting from activation of a user door control is not prohibited.

(2) Upon activation of a user door control during unattended door movement, the door shall stop, and may reverse the door on the closing cycle. On the opening cycle, activation of a user door control shall stop the door but not reverse it.

(3) If an unattended door travelling in the closing direction is stopped and reversed by an entrapment protection device, the operator system shall be permitted one additional unattended operation attempt to close the door.

(4) After two attempts per paragraph (d)(3) of this section, the operator system shall suspend unattended operation. The operator system shall require a renewed, intended input, via user door control (*e.g.,* wall control wireless remote, keypad) other than the unattended activation device, prior to re-enabling unattended operation.

(e) *Entrapment protection.* For a moving door, entrapment protection shall comply with §§ 1211.7 and 1211.8.

■ 15. Add new § 1211.15 to read as follows:

§ 1211.15 Vertically moving combination rigid one-piece overhead residential garage door and operator system.

(a) A vertically moving combination rigid one-piece overhead residential garage door and operator system shall comply with the applicable residential garage door operator requirements in this standard and shall additionally comply with the following:

(1) The speed of the door edge during the opening or closing motion shall not exceed 6 in (152 mm) per second.

(2) The system shall be supplied with two additional independent secondary entrapment protection devices complying with Secondary Entrapment Protection, § 1211.8. When photoelectric sensors are used, a minimum of two sensors in addition to a third secondary device shall be supplied. The instructions shall state that one photoelectric sensor shall be positioned to comply with § 1211.11 and the other(s) shall be positioned on the left and right sides of the door to detect solid objects that would be within the space where the door moves as it opens or closes.

(3) A means to manually detach both door operators from the door shall be provided. For systems where the mechanical drive is located on a wall adjacent to the door, the manual detachment means is not required to comply with § 1211.9(a). Instead, the manual detachment means shall be located 5 ft (1.52 m) above the floor, shall not require a torque of more than 5 ft-lb (6.78 N-m) to initiate disconnection when the door is obstructed, and shall be clearly marked with operating instructions adjacent to the mechanism. The gripping surface (handle) shall be colored red and shall be distinguishable from the rest of the operator. The marking which includes instructions for detaching the operator shall be provided in accordance with § 1211.17(a), (b), and (j) as applicable.

(4) A means (interlock) shall be supplied to de-energize the operator whenever the operator is manually detached from the door.

(5) A means (interlock) shall be supplied to de-energize the operator whenever an operable window or access (service) door that is mounted in the garage door is opened perpendicular to the surface of the garage door.

(6) The door shall not move outward from the exterior wall surface during the opening or closing cycle.

(7) The moving parts of the door or door system (mounting hardware, track assembly, and components that make up the door) shall be guarded.

(8) A horizontal track assembly, including installation hardware, shall support a dead load equal to the door weight when the door is in the horizontal position.

(9) Instructions for the installation of operable windows and access (service) doors and the interlocks specified in paragraph (a)(5) of this section shall be supplied with the operator.

(b) [Reserved]

■ 16. Revise newly redesignated § 1211.16 to read as follows:

§ 1211.16 Instruction manual.

(a) *General.* (1) A residential garage door operator shall be provided with an instruction manual. The instruction manual shall give complete instructions for the installation, operation, and user maintenance of the operator.

(2) Instructions that clearly detail installation and adjustment procedures required to effect proper operation of the safety means provided shall be provided with each door operator.

(3) A residential garage door or door operator shall be provided with complete and specific instructions for the correct adjustment of the control mechanism and the need for periodic checking and, if needed, adjustment of the control mechanism so as to maintain satisfactory operation of the door.

(4) The instruction manual shall include the important instructions specified in paragraphs (b)(1) and (2) of this section. All required text shall be legible and contrast with the background. Upper case letters of required text shall be no less than $\frac{5}{64}$ inch (2.0 mm) high and lower case letters shall be no less than $\frac{1}{16}$ inch (1.6 mm) high. Heading such as “Important Installation Instructions,” “Important Safety Instructions,” “Save These Instructions” and the words “Warning—To reduce the risk of severe injury or death to persons:” shall be in letters no less than $\frac{3}{16}$ inch (4.8 mm) high.

(5) The instructions listed in paragraphs (b)(1) and (2) of this section shall be in the exact words specified or shall be in equally definitive terminology to those specified. No substitutes shall be used for the word "Warning." The items may be numbered. The first and last items specified in paragraph (b)(2) of this section shall be first and last respectively. Other important and precautionary items considered appropriate by the manufacturer may be inserted.

(6) The instructions listed in paragraph (b)(1) of this section shall be located immediately prior to the installation instructions. The instructions listed in paragraph (b)(2) of this section shall be located immediately prior to user operation and maintenance instructions. In each case, the instructions shall be separate in format from other detailed instructions related to installation, operation and maintenance of the operator. All instructions, except installation instructions, shall be a permanent part of the manual(s).

(7) For an operator or system provided with an external entrapment protection device requiring a non-rechargeable battery, instructions shall be provided with the operator and/or the device for:

(i) The rating, size, number, and type of battery(s) to be used; and

(ii) The proper insertion, polarity, orientation, and replacement of the battery(s).

(8) For an operator or system provided with an external entrapment protection device or system utilizing wireless control, instructions shall be provided with the operator and/or the device for:

(i) The proper method of configuring and initializing the wireless communication link between device and operator;

(ii) The proper orientation, antenna positioning, and mounting location with regard to maintaining communication link between device and operator;

(iii) The maximum range at which the wireless device will operate; and

(iv) The proper location of the device where the transmission of the signals are not obstructed or impeded by building structures, natural landscaping or similar obstruction.

(9) When provided with a detachable supply cord, the operator instructions shall contain complete details concerning proper selection of the power supply cord replacement.

(10) The installation, operation, and maintenance instructions may be provided in electronic read-only media format only, such as CD–ROM, USB flash drive, or company Web site, if the following instructions are additionally provided with the operator in an instruction sheet, manual, booklet, or similar printed material:

(i) Residential garage doors and door operators, instructions of this section, as applicable.

(ii) [Reserved]

(11) The printed instruction material referenced in this section shall contain detailed instructions of how to obtain a printed copy of the material contained in electronic format.

(12) All printed instruction material referenced in this section shall also be provided in the electronic read-only media format.

(13) Instructions of a combination sectional overhead garage door operator system shall specify:

(i) The operator by manufacturer and model;

(ii) The door(s) by manufacturer(s), model(s), and maximum and minimum door width and height required for compliance to § 1211.6(a) and (c); and

(iii) Hardware required for compliance to § 1211.6(a) and (c).

(14) Installation and maintenance instructions of a combination sectional overhead garage door operator system shall indicate how to properly counter-balance the door.

(b) *Specific required instructions for residential garage door operators and systems.*

(1)(i) The Installation Instructions shall include the following instructions:

Important Installation Instructions

Warning—To reduce the risk of severe injury or death:

1. Read and follow all Installation Instructions.

2. Install only a properly balanced garage door. An improperly balanced door could cause severe injury. Have a qualified service person make repairs to cables, spring assemblies and other hardware before installing opener.

3. Remove all pull ropes and remove, or make inoperative, all locks connected to the garage door before installing opener.

4. Where possible, install door opener 7 feet or more above the floor. For products requiring an emergency release, mount the emergency release within reach, but at least 6 feet above the floor and avoiding contact with vehicles to avoid accidental release.

5. Do not connect opener to source of power until instructed to do so.

6. Locate control button: (a) Within sight of door, (b) at a minimum height of 5 feet above floors, landings, steps, or any other adjacent walking surface so small children cannot reach it, and (c) away from all moving parts of the door.

7. Install Entrapment Warning Label next to the control button in a prominent location. Install the Emergency Release Marking. Attach the marking on or next to the emergency release.

8. After installing opener, the door must reverse when it contacts a 1½ inch high object (or a 2 by 4 board laid flat) on the floor.

9. For products having a manual release, instruct the end user on the operation of the manual release.

10. For horizontally sliding doors, Item 2 shall be replaced with "Have a qualified service person make repairs and hardware adjustments before installing the opener."

(ii) In accordance with § 1211.14(a)(2), the installation instructions in paragraph (b)(1) of this section for a residential garage door operator intended for use with both sectional and one-piece door that has an unattended operation close feature shall comply with paragraph (b)(1) of this section and include:

> "WARNING: To reduce the risk of injury to persons—Only enable [+] feature when installed with a sectional door," where + is the unattended operation function.

(iii) Exception: For operators that automatically sense one piece door operation, the warning in paragraph (b)(1)(ii) of this section is not required.

(iv) For residential garage door operators that do not have permanent connection of the wiring system, the installation instructions shall include the following or equivalent text: "This operator not equipped for permanent wiring. Contact licensed electrician to install a suitable receptacle if one is not available."

(2) The User Instructions shall include the following instructions:

IMPORTANT SAFETY INSTRUCTIONS

Warning—To reduce the risk of severe injury or death:

1. READ AND FOLLOW ALL INSTRUCTIONS.

2. Never let children operate, or play with door controls. Keep the remote control away from children.

3. Always keep the moving door in sight and away from people and objects until it is completely closed. No one should cross the path of the moving door.

4. NEVER GO UNDER A STOPPED PARTIALLY OPEN DOOR.

5. Test door opener monthly. The garage door MUST reverse on contact with a 1½ inch object (or a 2 by 4 board laid flat) on the floor. After adjusting either the force or the limit of travel, retest the door opener. Failure to adjust the opener properly may cause severe injury or death.

6. For products requiring an emergency release, if possible, use the emergency release only when the door is closed. Use caution when using this release with the door open. Weak or broken springs may allow the door to fall rapidly, causing injury or death.

7. KEEP GARAGE DOOR PROPERLY BALANCE. See user's manual. An improperly balanced door could cause severe injury or death. Have a qualified service person make repairs to cables, spring assemblies and other hardware.

8. For operator systems equipped with an unattended operation feature, the following statement shall be included: "This operator system is equipped with an unattended operation feature. The door could move unexpectedly. NO ONE SHOULD CROSS THE PATH OF THE MOVING DOOR."

9. SAVE THESE INSTRUCTIONS.

10. For horizontally moving doors, Item 4 shall be replaced with "NEVER GO THROUGH A STOPPED, PARTIALLY OPEN DOOR".

11. For horizontally moving doors, Item 6 is not required.

12. For horizontally moving doors, Item 7 shall be replaced with "Have a qualified service person make repairs and hardware adjustments before installing the opener."

13. The installation instructions provided with a combination rigid one-piece overhead residential garage door and operator system shall specify the locations where attachments to the horizontal track shall be made for the purpose of supporting the track.

■ 17. Amend newly redesignated § 1211.17 by:

■ a. Adding paragraph (g)(2)(v);

■ b. Redesignating paragraphs (h) and (i) as paragraphs (i) and (j) respectively;

■ c. Adding new paragraph (h); and

■ d. Adding paragraphs (k) through (m).

The revisions and additions read as follows:

§ 1211.17 Field-installed labels.

* * * * *

(g) * * *

(2) * * *

(v) For products equipped with an unattended operation feature, the instructions shall include the following: "This operator system is equipped with an unattended operation feature. The door could move unexpectedly."

* * * * *

(h)(1) In accordance with § 1211.14(a)(2), the instructions of a residential garage door operator intended for use with both sectional doors and either one-piece or swinging doors and are provided with an unattended operation feature shall comply with paragraph (g) of this section and include the following under the avoidance statements of paragraph (g)(2) of this section:

"Only enable [+] feature when installed with a sectional door.", or equivalent, where + is the unattended operation closing function.

(2) For operators that automatically sense one piece door operation, this warning is not required.

* * * * *

(k) Both the operator and the door that comprise a combination sectional overhead garage door operator system shall be provided with permanent labels. The labels shall contain the following statement or the equivalent: "WARNING: THIS OPERATOR AND DOOR FUNCTION AS A SYSTEM. IF EITHER THE DOOR OR THE HARDWARE MUST BE REPLACED, THE REPLACEMENT DOOR OR HARDWARE MUST BE IDENTICAL TO THE ORIGINAL EQUIPMENT WITH RESPECT TO MANUFACTURER AND MODEL TO MAINTAIN THE SAFETY OF THE SYSTEM. SEE INSTRUCTION MANUAL." The marking shall be visible to the user after installation without the need to remove any covers.

(l) A label specified in paragraph (m) of this section when intended to be affixed during installation shall:

(1) Be provided with the operator or door assembly; and

(2) Have installation instructions of how and where to install the label so that it is visible to the user after installation.

(m) The operator of a combination sectional overhead garage door operator system shall be provided with a permanent marking that contains the following statement or the equivalent: "NO USER SERVICEABLE PARTS INSIDE."

■ 18. Amend newly redesignated § 1211.18 by:

■ a. Revising paragraphs (b)(3) and (c);

■ b. Redesignating paragraphs (f) through (k) as paragraphs (g) through (l);

■ c. Adding new paragraph (f);

■ d. Revise newly redesignated paragraphs (i), (j), and (k); and

■ e. Adding paragraphs (m) and (n).

The revisions and additions read as follows:

§ 1211.18 UL marking requirements.

* * * * *

(b) * * *

(3) The voltage, frequency, and input in amperes, VA, or watts. The ampere or VA rating shall be included unless the full-load power factor is 80 percent or more, or, for a cord-connected appliance, unless the rating is 50 W or less. The number of phases shall be indicated when an appliance is for use on a polyphase circuit; and

* * * * *

(c) The date code repetition cycle shall not be less than 20 years.

* * * * *

(f) Exception No 3: The input in amperes or watts may be shown as part of the motor nameplate, if the appliance employs a single motor, the nameplate is readily visible after the appliance has been installed.

* * * * *

(i) For products with user adjustments, a residential garage door operator shall be marked with the word "WARNING" and the following or equivalent, "Risk of entrapment. After adjusting either the force or limits of travel adjustments, insure that the door reverses on a 1½ inch (or a 2 by 4 board laid flat) high obstruction on the floor." This marking shall be located where visible to the user when making the adjustments.

(j) For a separately supplied accessory, including external entrapment protection device, the instructions, packaging, or marking on the product shall indicate the accessory manufacturer's name and or model number and the type of appliance or appliances with which it is intended to be used—such as a residential garage door operator. Additionally, installation instructions, accompanying specifications sheet, or packaging of the accessory shall identify the appliance or appliances with which it is intended to be used by specifying the manufacturer's name and catalog or model number or by any other positive means to serve the identification purpose.

(k) An appliance provided with terminals or connectors for connection of a separately supplied accessory, such as an external entrapment protection device or system, shall be marked to identify the accessory intended to be connected to the terminals or connectors. The accessory identification shall be by manufacturer's name and catalog or model number or other means to allow for the identification of accessories intended for use with the appliance.

* * * * *

(m)(1) In accordance with § 1211.14(a)(2), a residential garage door operator intended for use with both sectional and one-piece or swinging door that has an unattended operation close feature indicating the function in the carton markings shall include the following carton marking:

> "WARNING: To reduce the risk of injury to persons—Only enable [+] feature when installed with sectional door," where + is the unattended operation closing function.

(2) Exception: For operators that automatically sense one piece door operation, this warning is not required.

(n) A residential garage door operator is not required to be provided with permanent wiring systems when marked with the following or equivalent text: "This operator not equipped for permanent wiring. Contact licensed electrician to install a suitable receptacle if one is not available." This marking is to be placed adjacent to the power cord entry.

■ 19. Amend newly redesignated § 1211.19 by revising paragraph (b) to read as follows:

§ 1211.19 Statutory labeling requirement.

* * * * *

(b) The display of the UL logo or listing mark, and compliance with the date marking requirements stated in § 1211.18 of this subpart, on both the container and the system, shall satisfy the requirements of this subpart.

■ 20. Add figures 1 through 10 to subpart A and the table to subpart A to the end of subpart A to part 1211 to read as follows:

BILLING CODE 6355–01–P

Figure 1 to Subpart A of Part 1211 –Critical Condition Flow Chart for Residential Garage Door Operator Entrapment Protection Devices and Functions

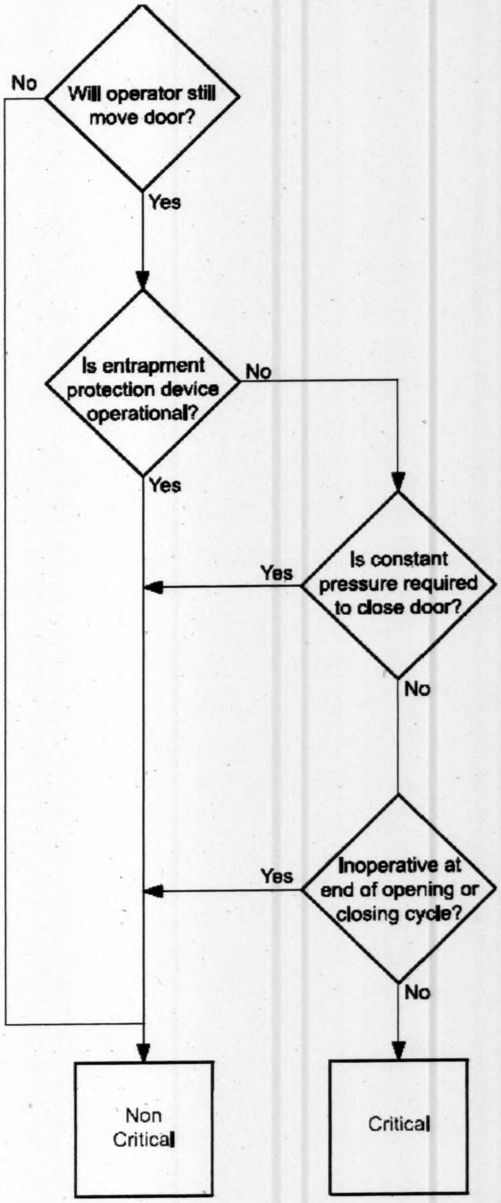
No
Will operator still move door?
Yes
Is entrapment protection device operational?
No
Yes
Yes
Is constant pressure required to close door?
No
Yes
Inoperative at end of opening or closing cycle?
No
Non Critical
Critical

Figure 2 to Subpart A of Part 1211—Nozzle SECTION A-A

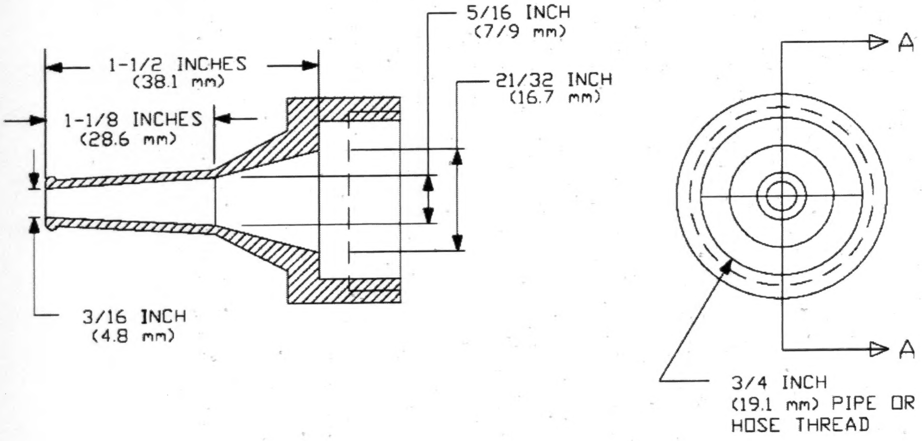
5/16 INCH
(7/9 mm)
1-1/2 INCHES
(38.1 mm)
21/32 INCH
(16.7 mm)
1-1/8 INCHES
(28.6 mm)
3/16 INCH
(4.8 mm)
A
A
3/4 INCH
(19.1 mm) PIPE OR
HOSE THREAD

Figure 3 to Subpart A of Part 1211—Stationary Obstruction

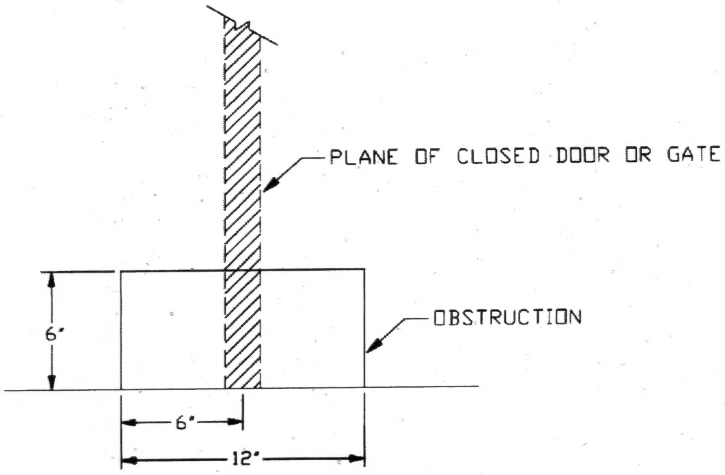
PLANE OF CLOSED DOOR OR GATE
OBSTRUCTION
6"
6"
12"

Figure 4 to Subpart A of Part 1211—Moving Obstruction

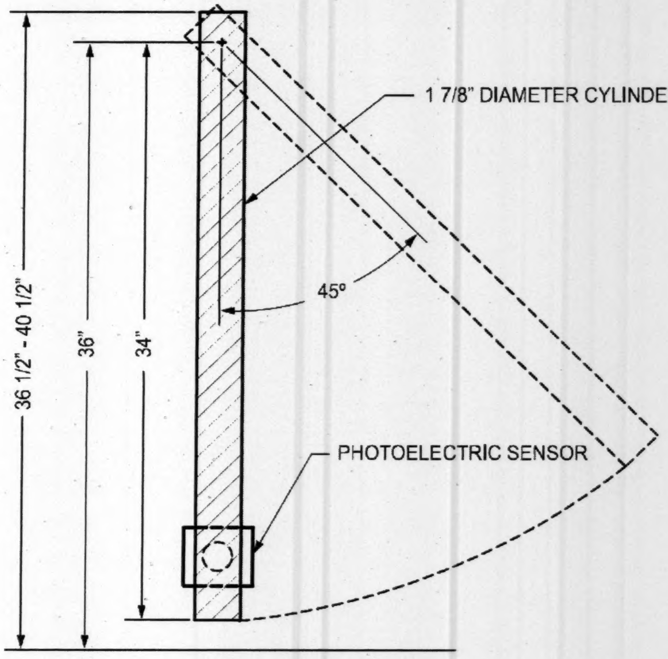
1 7/8" DIAMETER CYLINDER
45°
36 1/2" - 40 1/2"
36"
34"
PHOTOELECTRIC SENSOR

Figure 5 to Subpart A of Part 1211—Ambient Light Test

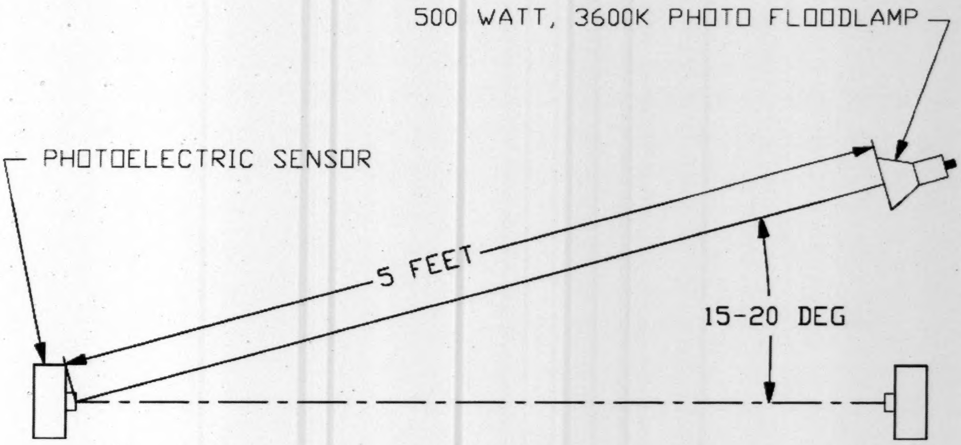
500 WATT, 3600K PHOTO FLOODLAMP
PHOTOELECTRIC SENSOR
5 FEET
15-20 DEG

Figure 6 to Subpart A of Part 1211—Edge Sensor Normal Operation Test

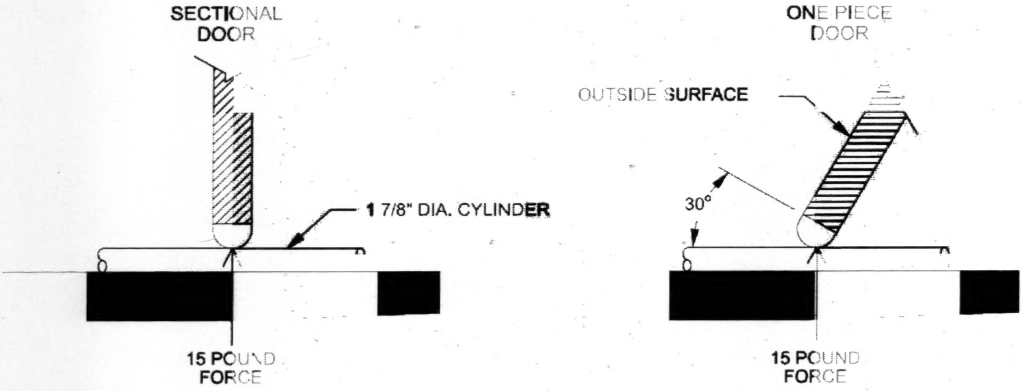
SECTIONAL DOOR
1 7/8" DIA. CYLINDER
15 POUND FORCE
ONE PIECE DOOR
OUTSIDE SURFACE
30°
15 POUND FORCE

Figure 7 to Subpart A of Part 1211—PUNCTURE PROBE

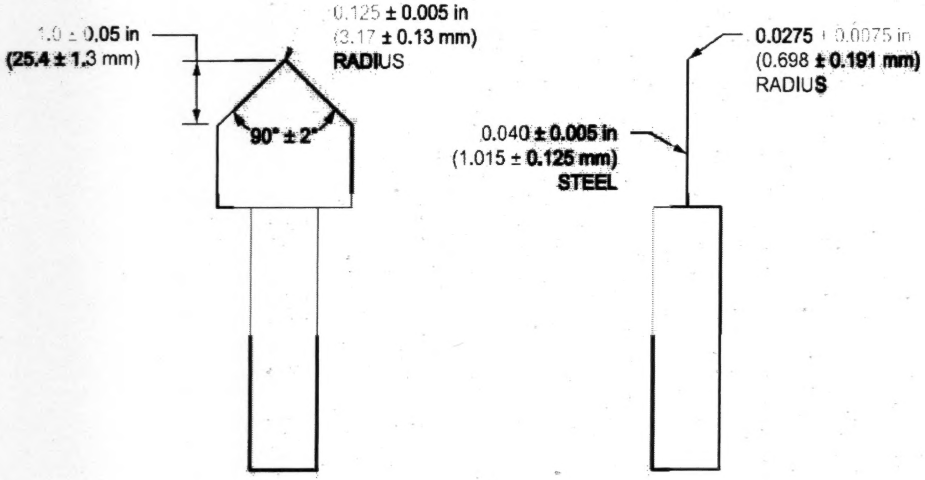
1.0 ± 0.05 in
(25.4 ± 1.3 mm)
0.125 ± 0.005 in
(3.17 ± 0.13 mm)
RADIUS
90° ± 2°
0.0275 ± 0.0075 in
(0.698 ± 0.191 mm)
RADIUS
0.040 ± 0.005 in
(1.015 ± 0.125 mm)
STEEL

Figure 8 to Subpart A of Part 1211—Example Test Apparatus for Measurements At 12 Inches or Greater

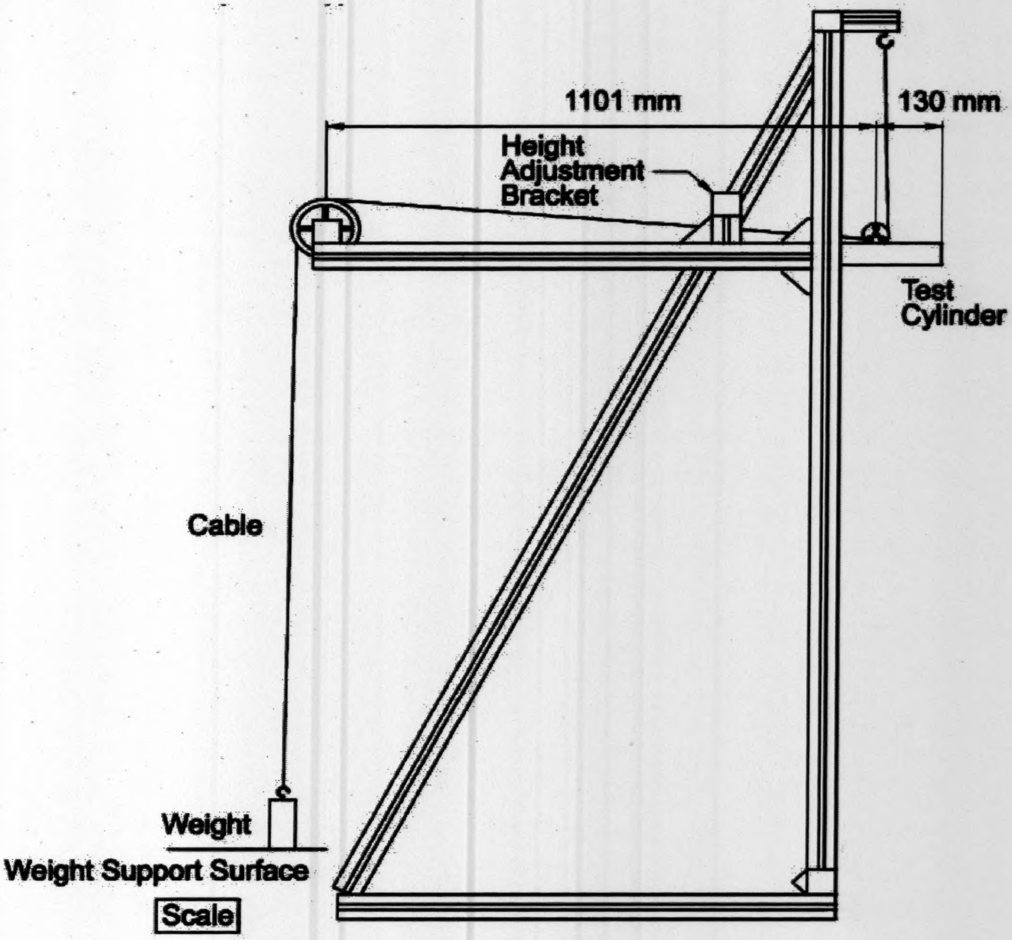
1101 mm
130 mm
Height Adjustment Bracket
Test Cylinder
Cable
Weight
Weight Support Surface
Scale

Figure 9 to Subpart A of Part 1211—Example Test Apparatus for Measurements At 12 Inches or Greater

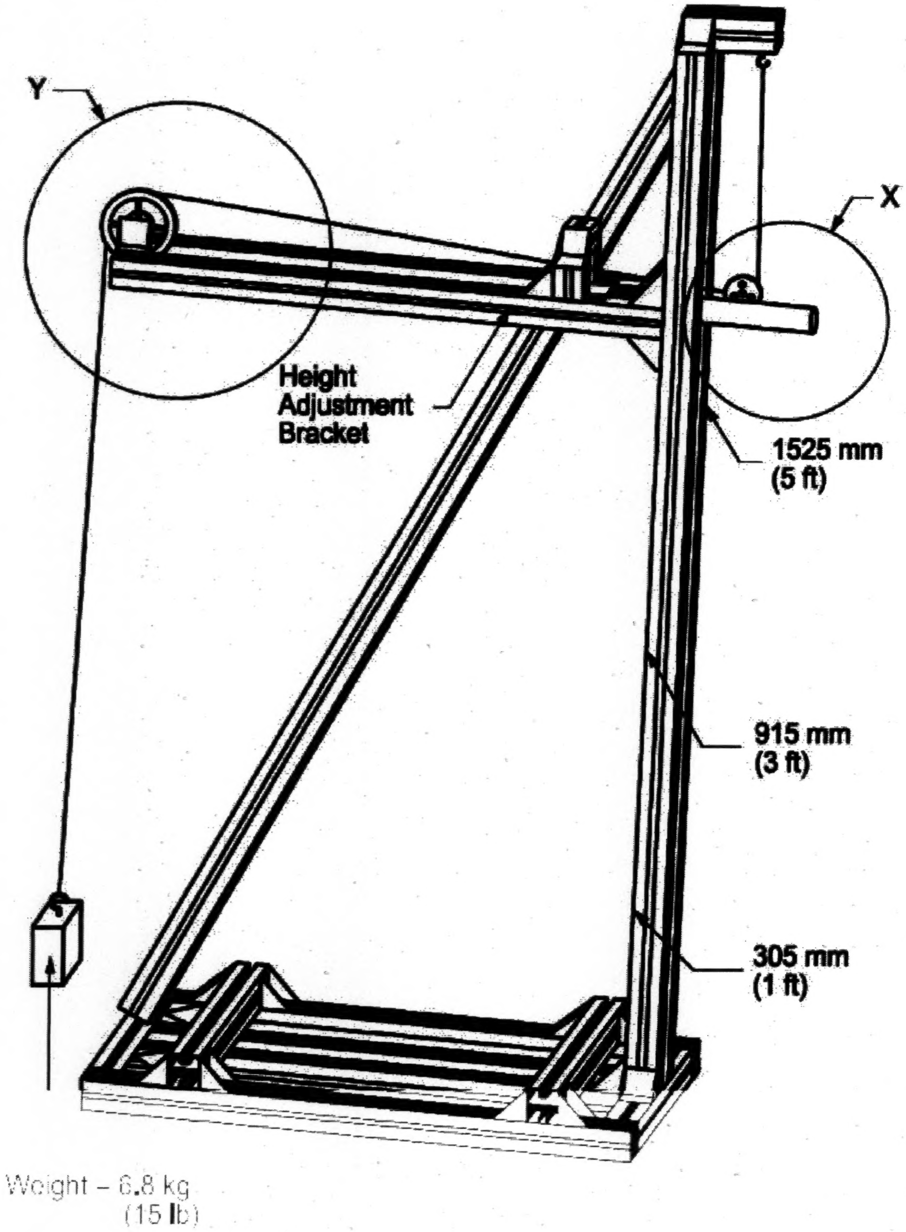
Y
X
Height Adjustment Bracket
1525 mm (5 ft)
915 mm (3 ft)
305 mm (1 ft)
Weight – 6.8 kg (15 lb)

Figure 10 to Subpart A of Part 1211—Example Test Apparatus for Measurements At 12 Inches or Greater

Table to Subpart A of Part 1211—Physical Properties of Gasket-Accelerated Aging Test

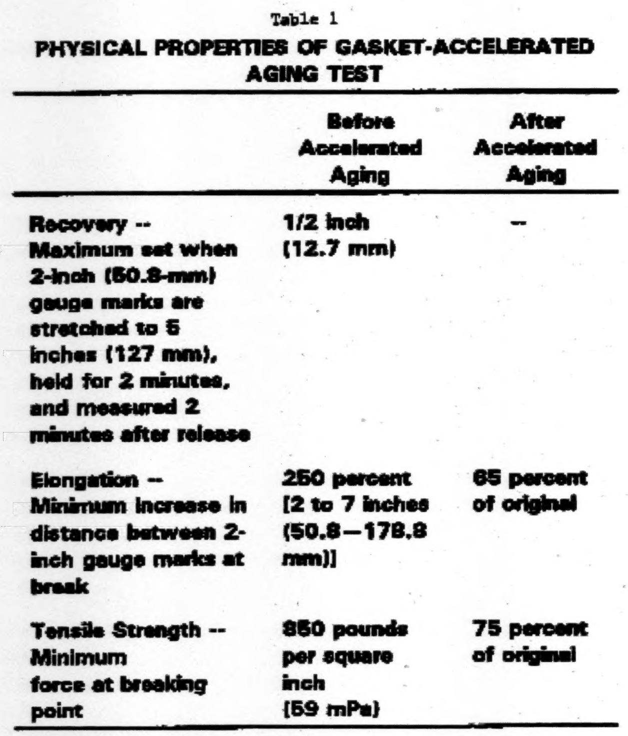

Table 1

PHYSICAL PROPERTIES OF GASKET-ACCELERATED AGING TEST

	Before Accelerated Aging	After Accelerated Aging
Recovery -- Maximum set when 2-inch (50.8-mm) gauge marks are stretched to 5 inches (127 mm), held for 2 minutes, and measured 2 minutes after release	1/2 inch (12.7 mm)	--
Elongation -- Minimum increase in distance between 2-inch gauge marks at break	250 percent [2 to 7 inches (50.8—178.8 mm)]	65 percent of original
Tensile Strength -- Minimum force at breaking point	850 pounds per square inch (59 mPa)	75 percent of original

■ 21. Add subpart D, consisting of § 1211.40, to read as follows:

Subpart D—Incorporation by Reference

§ 1211.40 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at Consumer Product Safety Commission, Office of the Secretary, 4330 East-West Highway, Bethesda, MD 20814, telephone 302–504–7923 and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) Door and Access Systems Manufacturers' Association, International (DASMA), 1300 Sumner Avenue, Cleveland, OH 44115–2851, Telephone: (216) 241–7333, *http://www.dasma.com/dasma-pages/D-AS-standards.asp.*

(1) ANSI/DASMA 102, Specifications for Sectional Doors, 2011 revision, dated May 19, 2011, into § 1211.6(c).

(2) [Reserved].

(c) National Fire Prevention Association (NFPA), 1 Batterymarch Park, Quincy, MA 02269–9101, Telephone: (800) 344–3555, *http://www.nfpa.org/.*

(1) NFPA 70, National Electrical Code, 2014 edition, effective August 21, 2013, into § 1211.2(c).

(2) [Reserved].

(d) UL, formerly Underwriters Laboratories, International, 151 Eastern Avenue, Bensenville, IL 60106, Telephone: 1–888–853–3503, *http://ulstandards.ul.com/.*

(1) UL 746C, Standard for Safety: Polymeric Materials—Use in Electrical Equipment Evaluations, Sixth Edition, dated September 10, 2004, into §§ 1211.10(d) and (e) and 1211.12(c).

(2) UL 991, Standard for Safety: Tests for Safety-Related Controls Employing Solid-State Devices, Third Edition, dated October 22, 2004, into §§ 1211.4(c) and 1211.5(b)(3).

(3) UL 1998, Standard for Safety: Software in Programmable Components, Third Edition, December 18, 2013, into § 1211.8(f).

Dated: March 30, 2016.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2016–07552 Filed 4–6–16; 8:45 am]

BILLING CODE 6355–01–C

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Parts 405 and 406

RIN 1215–AB79; 1245–AA03

Interpretation of the "Advice" Exemption in Section 203(c) of the Labor-Management Reporting and Disclosure Act

AGENCY: Office of Labor-Management Standards, Department of Labor.

ACTION: Final rule; OMB approval of information collection requirements.

SUMMARY: The Office of Labor-Management Standards of the Department of Labor ("Department") published a final rule on March 24, 2016. The final rule revises the Form LM–20 Agreement and Activities Report and the Form LM–10 Employer Report, which are filed with the Department pursuant to the Labor-Management Reporting and Disclosure Act (LMRDA). In the final rule, the Department revises its interpretation of the advice exemption in section 203(c) of the LMRDA to better effectuate section 203's requirement that employers and their labor relations consultants report activities undertaken with an object, directly or indirectly, to persuade employees about how to exercise their rights to union representation and collective bargaining. The revised interpretation provides employees with important information that would enable them to consider the source of the information about union representation directed at them when assessing the merits of the arguments and deciding how to exercise their rights. The Department has also revised the forms and instructions to make them more user-friendly and to require more detailed reporting on employer and consultant agreements. Additionally, with this rule, the Department requires that Forms LM–10 and LM–20 be filed electronically. In accordance with the Paperwork Reduction Act (PRA), the Department of Labor announces that the Office of Management and Budget has approved the information collection requirements contained in the final rule.

DATES: On March 25, 2016, the Office of Management and Budget (OMB) approved under the Paperwork Reduction Act the Department of Labor's information collection request for requirements in 29 CFR parts 402–406 and 408–409, including the employer and labor relations consultant reporting requirements in Parts 405 and 406, as published in the **Federal Register** on March 24, 2016. See 81 FR 15924. The current expiration date for OMB authorization for this information collection is March 31, 2019.

FOR FURTHER INFORMATION CONTACT: Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, at (202) 693–0123 (this is not a toll-free number).

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SUPPLEMENTARY INFORMATION: Congress enacted the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), to provide for the disclosure of information on the financial transactions and administrative practices of labor organizations. The statute also provides, under certain circumstances, for reporting by labor organization officers and employees, employers, labor relations consultants, and surety companies. Section 208 of the LMRDA authorizes the Secretary to issues rules and regulations prescribing the form of the required reports. The reporting provisions were devised to implement basic tenets of the LMRDA: To protect the rights of employees to organize and bargain collectively, as well as the guarantee of democratic procedures and safeguards within labor organizations, which are designed to protect the basic rights of union members. Section 205 of the LMRDA provides that the reports are public information.

On March 24, 2016, the Department published a final rule that revised the Form LM–20 Agreement and Activities Report and the Form LM–10 Employer Report. See 81 FR 15924. The final rule was based upon comments received in a Notice of Proposed Rulemaking ("NPRM") published on June 21, 2011. See 76 FR 37292. In the NPRM, the Department proposed to revise its interpretation of the advice exemption in section 203(c) of the LMRDA to better effectuate section 203's requirement that employers and their labor relations consultants report activities undertaken with an object, directly or indirectly, to persuade employees about how to exercise their rights to union representation and collective bargaining. Under the prior interpretation, reporting was effectively triggered only when a consultant communicated directly with employees. This interpretation left a broad category of persuader activities unreported, thereby denying employees important information that would enable them to consider the source of the information about union representation directed at them when assessing the merits of the arguments and deciding how to exercise their rights. The Department proposed to eliminate this reporting gap. The final rule adopts the proposed rule, with modifications, and provides increased transparency to workers without imposing any restraints on the content, timing, or method by which an employer chooses to make known to its employees its position on matters relating to union representation or collective bargaining. The final rule also maintains the LMRDA's section 203(c) advice exemption and the traditional privileges and disclosure requirements associated with the attorney-client relationship. The Department has also revised the forms and instructions to make them more user-friendly and to require more detailed reporting on employer and consultant agreements. Sections of the Department's regulations have also been amended consistent with the instructions. Additionally, with this rule, the Department requires that Forms LM–10 and LM–20 be filed electronically. This rule largely implements the Department's proposal in the NPRM, with modifications of several aspects of the revised instructions as proposed.

The Department's final rule includes information collection requirements subject to the Paperwork Reduction Act. Specifically, the final rule requires information collections for employers on the Form LM–10 Employer Report and labor relations consultants on the Form LM–20 Agreement and Activities Report, pursuant to LMRDA section 203, 29 U.S.C. 433. These forms are included, along with the other LMRDA forms, within OMB Control Number 1245–0003. As discussed in the preamble to the final rule, the Department submitted the information collections contained therein to the Office of Management and Budget (OMB) on February 25, 2016 for approval. See 81 FR 16003. On March 25, 2016, OMB approved the Department's information collection request under Control Number 1245–0003, thus giving effect to the information collection requirements contained in the final rule published in the **Federal Register** on March 24, 2016. The current expiration date for OMB authorization for this information collection is March 31, 2019.

Dated: March 30, 2016.

Michael J. Hayes,

Director, Office of Labor-Management Standards.

[FR Doc. 2016–07883 Filed 4–6–16; 8:45 am]

BILLING CODE 4510–CP–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 155

[Docket No. USCG–2011–0430, Formerly CGD–90–068]

RIN 1625–AA02, Formerly RIN 2115–AD66

Discharge Removal Equipment for Vessels Carrying Oil

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is finalizing an interim rule that requires vessels carrying oil in bulk as cargo to carry discharge removal equipment, install spill prevention coamings, and install emergency towing arrangements. The rule also requires these vessels to have prearranged capability to calculate damage stability in the event of a casualty. By reducing the risk of oil spills, improving vessel oil spill response capabilities, and minimizing the impact of oil spills on the environment, this rulemaking promotes the Coast Guard's maritime safety and stewardship missions.

DATES: This final rule is effective May 9, 2016.

ADDRESSES: Comments and materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2011–0430 and are available using the Federal eRulemaking Portal. You can find this docket on the Internet by going to *http://www.regulations.gov*, inserting USCG–2011–0430 in the "Keyword" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. David Du Pont, Office of Standards Evaluation and Development (CG–REG), U.S. Coast Guard; telephone 202–372–1497, or email *David.A.DuPont@uscg.mil*.

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

DHS	Department of Homeland Security
DRE	Discharge removal equipment
E.O.	Executive Order
FR	Federal Register
NOI	Notice of intent
OPA 90	Oil Pollution Act of 1990 (Pub. L. 101–380, 104 Stat 484, August 18, 1990)
§	Section
U.S.C.	United States Code
VRP	Vessel response plan

II. Regulatory History

This final rule was preceded by several rulemaking documents. On August 30, 1991, the Coast Guard published an advance notice of proposed rulemaking to solicit information to assist the Coast Guard in development of proposed rules that implement the Oil Pollution Act of 1990[1] (OPA 90) mandate for discharge removal equipment (DRE).[2] On September 29, 1992, the Coast Guard published a notice of proposed rulemaking that proposed to establish DRE regulations.[3] On December 22, 1993, the Coast Guard published an interim final rule (IFR) that established DRE requirements for on-deck spills, and also required vessels to install spill prevention coamings, to install emergency towing arrangements, and to have a prearranged capability to calculate damage stability in the event of a casualty.[4] On March 27, 2012, the Coast Guard published a notice of intent (NOI) to finalize with request for comments.[5] Several other rulemaking-related documents were published. For a complete list, see the Basis and Purpose section of the 2012 NOI.

III. Basis and Purpose

The legal basis for this rule is OPA 90 section 4202(a)(6), which amended section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) by, among other things, adding a new paragraph (6) to require vessels operating on the navigable waters of the United States and carrying oil or a hazardous substance in bulk as cargo to carry appropriate DRE on board.

The purpose of this rule is to finalize the interim rule, which was intended to reduce the risk of oil spills, improve vessel oil spill response capabilities, and minimize the impact of oil spills on the environment.

IV. Discussion of Comments and Changes

The Coast Guard received one submission containing two individual comments in response to the NOI. No public meeting was requested and none was held.

One comment supported finalizing the DRE rulemaking, and we agree with that view.

One comment recommended that the Coast Guard require vessel response plans (VRP) and include DRE procedures and training in that requirement. While outside the scope of this rulemaking, we note that Coast Guard regulations already include VRP requirements that incorporate DRE procedures and training. In a separate rulemaking finalized in 1996, the Coast Guard issued VRP requirements for tank vessels (see 61 FR 1081 (January 12, 1996)). The VRP regulations include a requirement to develop procedures for the crew to deploy DRE (see 33 CFR 155.1035(c)(3)) and for the exercise of the entire response plan every 3 years (see 33 CFR 155.1060(a)(5)).

This final rule makes no changes to the interim rule.

V. Discussion of the Rule

The Coast Guard is finalizing the interim rule we issued in 1993. The interim rule amended 33 CFR 155.140, incorporating third party references applicable to all of 33 CFR part 155, and added 33 CFR 155.200, 155.205, 155.210, 155.215, 155.220, 155.225, 155.230, 155.235, 155.240, and 155.245. It also amended 33 CFR 155.310. Sections 155.200 through 155.310 appear in part 155, subpart B, Vessel Equipment. The interim rule's regulations have been in place more than 20 years, and industry has long since been in compliance. Each of the sections added or amended by the interim rule has since been amended at least once by other rulemakings, in part to respond to public comments on the interim rule, but except as discussed below, each retains the general scope it had as a result of the interim rule. This final rule makes no changes to these sections, as subsequently amended.

Section 155.200 provides definitions applicable to subpart B. The section was subsequently amended in 2002 and 2008.

Section 155.205 requires oil tankers and offshore oil barges, with an overall length of 400 feet or more, to carry and have available for use equipment and supplies for containing and removing on-deck oil cargo spills. The section was subsequently amended in 1998.

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[1] Public Law 101–380, 104 Stat. 484 (August 18, 1990).

[2] 56 FR 43534 (Aug. 30, 1991).

[3] 57 FR 44912 (Sept. 29, 1992).

[4] 58 FR 67988 (Dec. 22, 1993).

[5] 77 FR 18151 (Mar. 27, 2012).

Section 155.210 requires oil tankers and offshore oil barges, with an overall length of less than 400 feet, to carry and have available for use equipment and supplies for containing and removing on-deck oil cargo spills. The section was subsequently amended in 1998.

Section 155.215 contains requirements for discharge containment and removal equipment and supplies on inland oil barges. The section was subsequently amended in 1998.

Section 155.220 contains requirements for discharge containment and removal equipment and supplies on vessels carrying oil as a secondary cargo. The section was subsequently amended in 1998.

Section 155.225 requires oil tankers and offshore oil barges to be properly equipped for the internal transfer of cargo to tanks or other spaces within the vessel's cargo block. The section was subsequently amended in 1998.

Section 155.230 contains emergency towing capability requirements for offshore oil barges. Section 155.230, as subsequently amended in 2000, 2009, 2010, and 2014, now contains a range of control system requirements for all tank barges, including emergency towing capability requirements.

Section 155.235, as subsequently amended in 1997 and 2009, contains emergency towing capability requirements for oil tankers of not less than 20,000 deadweight tons.

Section 155.240 requires oil tankers and offshore oil barges to have access to onshore, computerized equipment to calculate a damaged vessel's stability and residual structural strength. The section was subsequently amended in 1998.

Section 155.245 contains damage stability and residual strength requirements for inland oil barges. The section was subsequently amended in 1998.

The amendment to § 155.310 revised coaming and oil draining requirements to the section's oil discharge containment requirements. The section was subsequently amended in 1998.

VI. Incorporation by Reference

The interim rule (as amended) contains material incorporated by reference (IBR). The Director of the Federal Register previously approved all of this IBR material in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

VII. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

A. Regulatory Planning and Review

E.O.s 12866 ("Regulatory Planning and Review") and 13563 ("Improving Regulation and Regulatory Review") direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This rule is not a significant regulatory action under section 3(f) of E.O. 12866 as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of E.O. 12866. The Office of Management and Budget (OMB) has not reviewed it under E.O. 12866.

This rule finalizes the 1993 interim rule, and does not change or add new requirements to that rule or the subsequent amendments listed at the end of this document. Owners and operators have been in compliance since 1993 with the requirements this rule will finalize. The comments of the 2012 notice of intent required no change to the final rule. Therefore, the actual net costs of the final rule are zero.

The Coast Guard has developed an updated analysis of the impacts of the DRE requirements compared against the pre-statutory baseline (1993). The intent of the updated analysis is to use the most up-to-date data to present an impact analysis had industry not complied with the 1993 IFR. A copy of the analysis is available in the docket where indicated under **ADDRESSES**.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule finalizes the 1993 interim rule, and does not change or add new requirements. As a rule finalizing a previous interim rule, Regulatory Flexibility Act, 5 U.S.C. 601–612 requirements do not apply. Nonetheless, as the actual net costs of the final rule are zero, the Coast Guard believes that this rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking. This rule involves regulations concerning the equipping of vessels. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

E. Federalism

A rule has implications for federalism under E.O. 13132 ("Federalism") if it has a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132. Our analysis is explained below.

This rule is promulgated under the authority of OPA 90 Title IV, section 4202(a)(6), as codified in 33 U.S.C. 1321(j)(6). 33 U.S.C. 1321(o) contains a savings clause which states, "Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substance into any waters within such

State, or with respect to any removal activities related to such discharge." Although generally vessel equipping, operation, and manning requirements are within the field foreclosed from regulation by the States, (see the Supreme Court's decision in *United States* v. *Locke* and *Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (2000)), the Coast Guard believes that the savings clause in 33 U.S.C. 1321(o) is a limited exception to that general preemption principle. As long as the State discharge removal equipment requirement is in accordance with the principles of *Locke* (*e.g.,* is limited to the regulation and protection of local waterways), it will not be preempted unless compliance with both State and Federal law is impossible, or when the State law stands as an obstacle to the accomplishment and execution of the full purposes and objective of Congress. The Coast Guard does not intend to preempt more stringent State discharge removal equipment requirements unless those requirements conflict with Coast Guard requirements. At this time, the Coast Guard has no knowledge of any conflicting State discharge removal equipment requirements. This rule also does not implicate those fields saved to certain State regulation under Sections 702 and 711 of the Coast Guard Authorization Act of 2010. Therefore, this rule is consistent with the principles of federalism and preemption requirements in E.O. 13132.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630 ("Governmental Actions and Interference with Constitutionally Protected Property Rights").

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, ("Civil Justice Reform"), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under E.O. 13045 ("Protection of Children from Environmental Health Risks and Safety Risks"). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under E.O. 13175 ("Consultation and Coordination with Indian Tribal Governments"), because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under E.O. 13211 ("Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use"). We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule uses the voluntary consensus standards listed in 33 CFR 155.140.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370f, and have concluded that this action is not likely to have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, and figure 2–1, paragraph (34)(d) of the Instruction and under section 6.b. of the "Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy" (67 FR 48243, 48245, July 23, 2002). This rule involves regulations concerning the equipping of vessels. In addition, it implements a Congressional mandate (section 4202(a) of OPA 90). An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 155

Alaska, Hazardous substances, Incorporation by reference, Oil pollution, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the interim rule amending 33 CFR part 155 that was published at 58 FR 67988 on December 22, 1993, and amended at:

(a) 59 FR 3749 on January 26, 1994;

(b) 61 FR 33666 on June 28, 1996;

(c) 62 FR 51194 on September 30, 1997;

(d) 63 FR 35531 on June 30, 1998;

(e) 63 FR 71763 on December 30, 1998;

(f) 64 FR 67176 on December 1, 1999;

(g) 65 FR 31811 on May 19, 2000;

(h) 67 FR 58524 on September 17, 2002;

(i) 69 FR 18801 on April 9, 2004;

(j) 73 FR 35015 on June 19, 2008;

(k) 73 FR 79316 on December 29, 2008;

(l) 73 FR 80648 on December 31, 2008;

(m) 74 FR 45026 on August 31, 2009;

(n) 75 FR 36285 on June 25, 2010;

(o) 78 FR 13249 on February 27, 2013;

(p) 78 FR 60122 on September 30, 2013;

(q) 79 FR 38436 on July 17, 2014; and,

(r) 80 FR 5934 on February 4, 2015.

is adopted as a final rule without change.

Dated: April 1, 2016.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2016–07977 Filed 4–6–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 164

[Docket No. USCG–2005–21869]

RIN 1625–AA99

Vessel Requirements for Notices of Arrival and Departure, and Automatic Identification System; AIS Information Collection

AGENCY: Coast Guard, DHS.

ACTION: Final rule; information collection approval and announcement of effective date.

SUMMARY: The Coast Guard announces that it has received approval from the Office of Management and Budget for an information collection request associated with automatic identification system requirements in a final rule we published in the **Federal Register** on January 30, 2015. In that rule we stated we would publish a document in the **Federal Register** announcing the effective date of these collection-of-information related paragraphs. This rule establishes today as the effective date for those paragraphs.

DATES: Revised paragraphs (b) and (c) of § 164.46, published in the **Federal Register** on January 30, 2015 (80 FR 5282), are effective April 7, 2016.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Jorge Arroyo, Office of Navigation Systems (CG–NAV–3), Coast Guard; telephone 202–372–1563, email *Jorge.Arroyo@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Viewing Documents Associated With This Rule

To view the final rule published on January 30, 2015 (80 FR 5282), or other documents in the docket for this rulemaking, go to *www.regulations.gov,* type the docket number, USCG–2005–21869, in the "SEARCH" box and click "SEARCH." Click on "Open Docket Folder" in the first item listed. Use the following link to go directly to the docket: *www.regulations.gov/#!docketDetail;D=USCG-2005-21869.*

Background

On January 30, 2015, the Coast Guard published a final rule that revised or amended existing notice of arrival and automatic identification system requirements. 80 FR 5282. Our final rule delayed the effective date of § 164.46(b) and (c) because these paragraphs contain collection of information provisions that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. On March 29, 2016, OMB approved the collection assigned OMB Control Number 1625–0112, Enhanced Maritime Domain Awareness via Electronic Transmission of Vessel Transit Data. Accordingly, we announce that paragraphs (b) and (c) of § 164.46 are effective April 7, 2016. The approval for this collection of information expires on March 31, 2019.

This document is issued under the authority of 33 U.S.C. 1231 and 46 U.S.C. 70114. With respect to the other collection of information associated with the January 2015 final rule—OMB Control Number 1625–0100, Advance Notice of Vessel Arrival, on August 20, 2015—we published a document (80 FR 50576) that announced OMB's approval and the effective date of notice of arrival requirements in §§ 160.204(a)(5)(vii), 160.205, and 160.208(a) and (c) associated with that collection.

Dated: April 1, 2016.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2016–07958 Filed 4–6–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840–AD14

[Docket ID ED–2015–OPE–0020]

Program Integrity and Improvement; Corrections

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final rule; corrections.

SUMMARY: The Department of Education published final regulations for Program Integrity and Improvement in the **Federal Register** on October 30, 2015 (80 FR 67125). This document corrects errors in the final regulations.

DATES: Effective July 1, 2016.

FOR FURTHER INFORMATION CONTACT: Ashley Higgins, U.S. Department of Education, 400 Maryland Avenue SW., Room 6W234, Washington, DC 20202. Telephone: (202) 453–6097.

If you use a telecommunications device for the deaf or a text telephone, call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 30, 2015 (80 FR 67125):

(a) In § 668.164(e)(2), we inadvertently limited the permissible use of any personally identifiable information about a student to activities that support making payments of title IV funds, when institutions must make other types of payments to students. Accordingly, on page 67197, in the middle column, we correct § 668.164(e)(2)(ii)(B) of the regulations by replacing the phrase "of title IV, HEA program funds" with the phrase "to the student".

(b) Under the final regulations, institutions with Tier one arrangements must make public both the full contract and selected contract data. In the regulatory text, we inadvertently omitted reference to the contract data in § 668.164(e)(2)(viii). Accordingly, on page 67197, in the right-hand column, we correct § 668.164(e)(2)(viii) of the regulations by adding the words "and contract data as described in paragraph (e)(2)(vii) of this section" after the word "contract".

(c) In § 668.164(e)(3) of the regulations, we inadvertently limited the information an institution may share to enrollment information relating to title IV recipients, when institutions are permitted to share under the final regulations such information for all students. Accordingly, on page 67198, in the left-hand column, we correct § 668.164(e)(3) by replacing "title IV recipients' " with "students' ".

(d) In § 668.164(f)(4)(i)(A) of the regulations we incorrectly omitted a word. Accordingly, on page 67198, in the middle column, we correct § 668.164(f)(4)(i)(A) by adding "information" after "identifiable".

(e) In § 668.164(f)(4)(vi) of the regulations, we inadvertently included a redundant phrase. Accordingly, on page 67198, in the right-hand column, we correct § 668.164(f)(4)(vi) by replacing the phrase "If the institution is located in a State, ensure" with the word "Ensure".

(f) In § 668.164(f)(4)(xii) of the regulations, we inadvertently implied that § 668.164(d)(4)(i) was a voluntary requirement for institutions with a Tier two arrangement that falls below the threshold number of students. Accordingly, on page 67199, in the left-hand column, we correct § 668.164(f)(4)(xii) by adding the word "applicable" before the word "provisions" and removing the reference to "(d)(4)(i), (f)(4), and (f)(5)" and adding in its place "(f)(4) and (5)".

(g) In § 668.164(f)(5) of the regulations, we inadvertently limited the information an institution may share to enrollment information relating to title IV recipients, when institutions are permitted to share under the final regulations such information for all students. Accordingly, on page 67199, in the left-hand column, we correct § 668.164(f)(5) by replacing the phrase "title IV recipients' " with the word "students' ".

(h) In § 668.165(a)(2), we inadvertently omitted the new definition set out in § 668.161. Accordingly, on page 67200, in the middle column, we correct § 668.165(a)(2) by removing the phrase "student's account at the institution" and replacing it with the phrase "student ledger account".

(i) In § 668.166(a)(2), we inadvertently omitted the new definition set out in § 668.161. Accordingly, on page 67201, in the right-hand column, we correct § 668.166(a)(2) by removing the phrase "Federal account" and replacing it with the phrase "depository account".

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act, 5 U.S.C. 553, it is the Secretary's practice to offer interested parties the opportunity to comment on proposed regulations. However, the regulatory changes in this document are necessary to correct errors and do not establish any new substantive rules. Therefore, the Secretary has determined that publication of a proposed rule is unnecessary under 5 U.S.C. 553(b)(B).

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.*, Braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

In the **Federal Register** of October 30, 2015, in FR Doc. 2015–27145 (80 FR 67125), the following corrections are made:

§ 668.164 [Corrected]

■ 1. On page 67197, in the middle column, correct § 668.164(e)(2)(ii)(B) by removing the phrase "of title IV, HEA program funds" and adding in its place the phrase "to the student".

■ 2. On page 67197, in the right-hand column, correct § 668.164(e)(2)(viii) by adding the words "and contract data as described in paragraph (e)(2)(vii) of this section" after the word "contract".

■ 3. On page 67198, in the left-hand column, correct § 668.164(e)(3) by removing "title IV recipients' " and add in its place "students' ".

■ 4. On page 67198, in the middle column, correct § 668.164(f)(4)(i)(A) by adding "information" after "identifiable".

■ 5. On page 67198, in the right-hand column, correct § 668.164(f)(4)(vi) by removing the phrase "If the institution is located in a State, ensure" and adding in its place the word "Ensure".

■ 6. On page 67199, in the left-hand column, correct § 668.164(f)(4)(xii) by adding the word "applicable" before the word "provisions" and removing the reference to "(d)(4)(i), (f)(4), and (f)(5)" and adding in its place "(f)(4) and (5)".

■ 7. On page 67199, in the left-hand column, correct § 668.164(f)(5) by removing the phrase "title IV recipients' " and adding in its place the word "students' ".

§ 668.165 [Corrected]

■ 8. On page 67200, in the middle column, correct § 668.165(a)(2) introductory text by removing the phrase "student's account at the institution" and adding in its place the phrase "student ledger account".

§ 668.166 [Corrected]

■ 9. On page 67201, in the right-hand column, correct § 668.166(a)(2) by removing the phrase "Federal account" and adding in its place the phrase "depository account".

Dated: April 4, 2016.

John B. King, Jr.,

Secretary of Education.

[FR Doc. 2016–08053 Filed 4–6–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

34 CFR Part 668

[Docket ID ED–2015–OPE–0020]

RIN 1840–AD14

Program Integrity and Improvement

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Announcement of early implementation date.

SUMMARY: The U.S. Department of Education is establishing the date for early implementation of certain regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA).

DATES: The early implementation date for §§ 668.2(b) and 668.163(a)(1) and (c), published in the **Federal Register** of October 30, 2015 (80 FR 67126), is April 7, 2016.

FOR FURTHER INFORMATION CONTACT: For repeat coursework: Vanessa Freeman, U.S. Department of Education, 400 Maryland Ave. SW., Room 6W236, Washington, DC 20202–1100. Telephone: (202) 453–7378 or by email at: *vanessa.freeman@ed.gov;* or Aaron Washington, U.S. Department of Education, 400 Maryland Ave. SW., Room 6W246, Washington, DC 20202–1100. Telephone: (202) 453–7241 or by email at: *aaron.washington@ed.gov*. For cash management: Ashley Higgins, U.S. Department of Education, 400 Maryland Ave. SW., Room 6W234, Washington, DC 20202–1100. Telephone: (202) 453–6097 or by email at: *ashley.higgins@ed.gov*.

If you use a telecommunications device for the deaf or text telephone, call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On October 30, 2015, we published final rules in the **Federal Register** (80 FR 67126) amending the cash management regulations and other sections of the Student Assistance General Provisions regulations issued under the HEA.

Section 482(c) of the HEA requires that regulations affecting programs under title IV be published in final form by November 1 prior to the start of the award year (July 1) to which they apply. However, that section of the HEA also permits the Secretary to designate any regulation as one that an entity subject to the regulations may choose to implement earlier, and to specify the conditions for early implementation. The Secretary is exercising the authority under Section 482(c) of the HEA to early implement specific sections of the

Program Integrity and Improvement regulations.

Section 668.2(b) specifies that in a term-based program a student may repeat any coursework previously taken in the program but the coursework may not include more than one repetition of a previously passed course. This provision applies to graduate and professional as well as undergraduate students. Section 668.163(a)(1) specifies that educational institutions must maintain title IV, HEA program funds in depository accounts and guidelines that domestic and foreign educational institutions must follow in selecting this account. Finally, § 668.163(c) states that educational institutions in a State must maintain title IV, HEA program funds in an interest-bearing depository account. This section also explains in which instances interest on funds can be retained or must be remitted to the Department of Health and Human Services.

Implementation Date of These Regulations

The Secretary is exercising the authority under section 482(c) of the HEA to designate the following amended regulations in 34 CFR part 668 for early implementation beginning on April 7, 2016:

(1) Section 668.2(b) (Retaking Coursework);

(2) Section 668.163(a)(1) (Depository account); and

(3) Section 668.163(c) (Interest-bearing depository account).

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting Ashley Higgins, U.S. Department of Education, 400 Maryland Ave. SW., Room 6W234, Washington, DC 20202–1100. Telephone: (202) 453–6097 or by email: *ashley.higgins@ed.gov.*

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 1098a.

Dated: April 4, 2016.

John B. King, Jr.,

Secretary of Education.

[FR Doc. 2016–08055 Filed 4–6–16; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2015–0573, 0574, 0578, 0579 and 0580; FRL–9944–36–OLEM]

National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency ("the EPA" or "the agency") in determining which sites warrant further investigation. These further investigations will allow the EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds five sites to the General Superfund section of the NPL.

DATES: The document is effective on May 9, 2016.

ADDRESSES: Contact information for the EPA Headquarters:

- Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue NW.; William Jefferson Clinton Building West, Room 3334, Washington, DC 20004, 202/566–0276.

The contact information for the regional dockets is as follows:

- Holly Inglis, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109–3912; 617/918–1413.
- Ildefonso Acosta, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4344.
- Lorie Baker (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3HS12, Philadelphia, PA 19103; 215/814–3355.
- Jennifer Wendel, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street SW., Mailcode 9T25, Atlanta, GA 30303; 404/562–8799.
- Todd Quesada, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Division Librarian/SFD Records Manager SRC–7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886–4465.
- Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Suite 1200, Mailcode 6SFTS, Dallas, TX 75202–2733; 214/665–7436.
- Preston Law, Region 7 (IA, KS, MO, NE), U.S. EPA, 11201 Renner Blvd., Mailcode SUPR/SPEB, Lenexa, KS 66219; 913/551–7097.
- Sabrina Forrest, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mailcode 8EPR–B, Denver, CO 80202–1129; 303/312–6484.
- Sharon Murray, Region 9 (AZ, CA, HI, NV, AS, GU, MP), U.S. EPA, 75 Hawthorne Street, Mailcode SFD 6–1, San Francisco, CA 94105; 415/947–4250.
- Ken Marcy, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 6th Avenue, Mailcode ECL–112, Seattle, WA 98101; 206/463–1349.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, phone: (703) 603–8852, email: *jeng.terry@epa.gov* Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mailcode 5204P), U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue NW., Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (“CERCLA” or “the Act”), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (“SARA”), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What is the NCP?

To implement CERCLA, the EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. The EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes “criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action.” “Removal” actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

C. What is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended. Section 105(a)(8)(B) defines the NPL as a list of “releases” and the highest priority “facilities” and requires that the NPL be revised at least annually. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by the EPA (the “General Superfund section”) and one of sites that are owned or operated by other federal agencies (the “Federal Facilities section”). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody or control, although the EPA is responsible for preparing a Hazard Ranking System (“HRS”) score and determining whether the facility is placed on the NPL.

D. How are sites listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the HRS, which the EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), the EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure and air. As a matter of agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL. (2) Each state may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each state as the greatest danger to public health, welfare or the environment among known facilities in the state. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2). (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- The EPA determines that the release poses a significant threat to public health.
- The EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

The EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

E. What happens to sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). ("Remedial actions" are those "consistent with a permanent remedy, taken instead of or in addition to removal actions" (40 CFR 300.5). However, under 40 CFR 300.425(b)(2), placing a site on the NPL "does not imply that monies will be expended." The EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. Does the NPL define the boundaries of sites?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA "facility" is broadly defined to include any area where a hazardous substance has "come to be located" (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the "boundaries" of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (*e.g.,* the "Jones Co. Plant site") in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (*e.g.,* it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (*e.g.,* where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the "site"). The "site" is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination, and is not meant to constitute any determination of liability at a site. For example, the name "Jones Co. plant site," does not imply that the Jones Company is responsible for the contamination located on the plant site.

EPA regulations provide that the remedial investigation ("RI") "is a process undertaken . . . to determine the nature and extent of the problem presented by the release" as more information is developed on site contamination, and which is generally performed in an interactive fashion with the feasibility study ("FS") (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination "has come to be located" before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted previously, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How are sites removed from the NPL?

The EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that the EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

H. May the EPA delete portions of sites from the NPL as they are cleaned up?

In November 1995, the EPA initiated a policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and made available for productive use.

I. What is the Construction Completion List (CCL)?

The EPA also has developed an NPL construction completion list ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) the EPA has determined that the response action should be limited to measures that do not involve construction (*e.g.,* institutional controls); or (3) the site qualifies for deletion from the NPL. For the most up-to-date information on the CCL, see the EPA's Internet site at *https://www.epa.gov/superfund/about-superfund-cleanup-process#tab-6.*

J. What is the Sitewide Ready for Anticipated Use measure?

The Sitewide Ready for Anticipated Use measure represents important Superfund accomplishments and the measure reflects the high priority the EPA places on considering anticipated future land use as part of the remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, OSWER 9365.0–36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. The EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment for current and future land uses, in a manner that allows contaminated properties to be restored to environmental and economic vitality. For further information, please go to *https://www.epa.gov/superfund/about-superfund-cleanup-process#tab-9*.

K. What is state/tribal correspondence concerning NPL listing?

In order to maintain close coordination with states and tribes in the NPL listing decision process, the EPA's policy is to determine the position of the states and tribes regarding sites that the EPA is considering for listing. This consultation process is outlined in two memoranda that can be found at the following Web site: *https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing*.

The EPA has improved the transparency of the process by which state and tribal input is solicited. The EPA is using the Web and where appropriate more structured state and tribal correspondence that (1) explains the concerns at the site and the EPA's rationale for proceeding; (2) requests an explanation of how the state intends to address the site if placement on the NPL is not favored; and (3) emphasizes the transparent nature of the process by informing states that information on their responses will be publicly available.

A model letter and correspondence between the EPA and states and tribes where applicable, is available on the EPA's Web site at *https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing.htm*.

II. Availability of Information to the Public

A. May I review the documents relevant to this final rule?

Yes, documents relating to the evaluation and scoring of the sites in this final rule are contained in dockets located both at the EPA headquarters and in the EPA regional offices.

An electronic version of the public docket is available through *http://www.regulations.gov* (see table below for docket identification numbers). Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facilities identified in section II.D.

DOCKET IDENTIFICATION NUMBERS BY SITE

Site name	City/county, state	Docket ID No.
PCE Former Dry Cleaner	Atlantic, IA	EPA–HQ–SFUND–2015–0573.
Old American Zinc Plant	Fairmont City, IL	EPA–HQ–SFUND–2015–0574.
Iowa-Nebraska Light & Power Co	Norfolk, NE	EPA–HQ–SFUND–2015–0578.
Former Kil-Tone Company	Vineland, NJ	EPA–HQ–SFUND–2015–0579.
Lea and West Second Street	Roswell, NM	EPA–HQ–SFUND–2015–0580.

B. What documents are available for review at the EPA headquarters docket?

The headquarters docket for this rule contains the HRS score sheets, the documentation record describing the information used to compute the score and a list of documents referenced in the documentation record for each site.

C. What documents are available for review at the EPA regional dockets?

The EPA regional dockets contain all the information in the headquarters docket, plus the actual reference documents containing the data principally relied upon by the EPA in calculating or evaluating the HRS score. These reference documents are available only in the regional dockets.

D. How do I access the documents?

You may view the documents, by appointment only, after the publication of this rule. The hours of operation for the headquarters docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays. Please contact the regional dockets for hours. For addresses for the headquarters and regional dockets, see **ADDRESSES** section in the beginning portion of this preamble.

E. How may I obtain a current list of NPL sites?

You may obtain a current list of NPL sites via the Internet at *https://www.epa.gov/superfund/national-priorities-list-npl-sites-site-name* or by contacting the Superfund docket (see contact information in the beginning portion of this document).

III. Contents of This Final Rule

A. Additions to the NPL

This final rule adds the following five sites to the General Superfund section of the NPL. These sites are being added to the NPL based on HRS score.

General Superfund section:

State	Site name	City/county
IA	PCE Former Dry Cleaner	Atlantic.
IL	Old American Zinc Plant	Fairmont City.
NE	Iowa-Nebraska Light & Power Co	Norfolk.
NJ	Former Kil-Tone Company	Vineland.
NM	Lea and West Second Street	Roswell.

B. What did the EPA do with the public comments it received?

The EPA is adding five sites to the NPL in this final rule, all to the general Superfund section. All of the sites were proposed for addition to the NPL on September 30, 2015 (80 FR 58658).

Three of the sites received no comments. They are PCE Former Dry Cleaner in Atlantic, IA; Old American Zinc Plant in Fairmont City, IL; and, Lea and West Second Street in Roswell, NM.

EPA received one comment supporting listing of the Kil-Tone Company in Vineland, NJ. In response, EPA is adding the Former Kil-Tone Company site to the NPL.

EPA received HRS-specific comments on the Iowa-Nebraska Light & Power Co in Norfolk, NE. Those comments have been addressed in a response to comments support document available in the public docket concurrently with the publication of this rule.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at ***https://www.epa.gov/laws-regulations/laws-and-executive-orders.***

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This rule does not contain any information collection requirements that require approval of the OMB.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments or the private sector. Listing a site on the NPL does not itself impose any costs. Listing does not mean that the EPA necessarily will undertake remedial action. Nor does listing require any action by a private party, state, local or tribal governments or determine liability for response costs. Costs that arise out of site responses result from future site-specific decisions regarding what actions to take, not directly from the act of placing a site on the NPL.

E. Executive Order 13132: Federalism

This final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. Listing a site on the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because this action itself is procedural in nature (adds sites to a list) and does not, in and of itself, provide protection from environmental health and safety risks. Separate future regulatory actions are required for mitigation of environmental health and safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the level of protection provided to human health or the environment. As discussed in Section I.C. of the preamble to this action, the NPL is a list of national priorities. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance as it does not assign liability to any party. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

K. Congressional Review Act

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Provisions of the Congressional Review Act (CRA) or section 305 of CERCLA may alter the effective date of this regulation. Under 5 U.S.C. 801(b)(1), a rule shall not take effect, or continue in effect, if Congress enacts (and the President signs) a joint resolution of disapproval, described under section 802. Another statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS* v. *Chadha,* 462 U.S. 919,103 S. Ct. 2764 (1983), and *Bd. of Regents of the University of Washington* v. *EPA,* 86 F.3d 1214,1222 (D.C. Cir. 1996), cast the validity of the legislative veto into question, the EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress under either the CRA or CERCLA section 305 calls the effective date of this regulation into question, the EPA will publish a document of clarification in the **Federal Register.**

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: March 28, 2016.

Mathy Stanislaus,

Assistant Administrator, Office of Land and Emergency Management.

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for Part 300 is revised to read as follows:

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to Part 300 is amended by adding entries for "PCE Former Dry Cleaner", "Old American Zinc Plant", "Iowa-Nebraska Light & Power Co", "Former Kil-Tone Company" and "Lea and West Second Street" in alphabetical order by state to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes [(a)]
*	*	*	*
IA	PCE Former Dry Cleaner	Atlantic.	
*	*	*	*
IL	Old American Zinc Plant	Fairmont City.	
*	*	*	*
NE	Iowa-Nebraska Light & Power Co	Norfolk.	
*	*	*	*
NJ	Former Kil-Tone Company	Vineland.	
*	*	*	*
NM	Lea and West Second Street	Roswell.	
*	*	*	*

[(a)] A = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be greater than or equal to 28.50).

* * * * *

[FR Doc. 2016–07672 Filed 4–6–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 62

[Docket ID: FEMA–2016–0009]

RIN 1660–AA88

National Flood Insurance Program: Update To Address Information for Claims Appeals

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency is revising its regulations to remove address information for the National Flood Insurance Program's claims appeals process.

DATES: This final rule is effective April 7, 2016.

FOR FURTHER INFORMATION CONTACT: Claudia Murphy, Policyholder Services Division Director, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW., Washington, DC 20472–3020, 202–646–2775, or (email) *Claudia.murphy@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Removal of Address

In accordance with Federal Emergency Management Agency (FEMA) regulations at title 44 Code of Federal Regulations (CFR) part 62, subpart B, once a flood insurer participating in the National Flood Insurance Program (NFIP) issues a final claim determination, a policyholder may appeal an action related to the claim taken by the insurer, a FEMA employee, or insurance agent. To pursue an appeal, a policyholder must submit a written appeal to FEMA within 60 days from the date of the decision. *See* 44 CFR 62.20(e)(1).

The current regulations at § 62.20(e)(1) indicate that policyholders should submit their appeal to: DHS/FEMA, Mitigation Directorate, Federal Insurance Administrator, 1800 S. Bell Street, Arlington, VA 20598–MS3010. FEMA is removing this address from the regulations because the Federal Insurance and Mitigation Administration (FIMA), which handles claims appeals, is relocating from Arlington, Virginia to Washington, DC, and the address in the regulations will no longer be valid. Beginning April 4, 2016, policyholders should submit written appeals to FEMA at the following address: Federal Insurance and Mitigation Administration (FIMA), DHS/FEMA, 400 C Street SW., 3rd Floor, Washington, DC 20472–3020. FEMA is also introducing the option to submit written appeals via electronic mail at *FEMA-NFIP-Appeals@fema.dhs.gov.*

FEMA will make this information available on its Web site at *www.fema.gov.* FEMA has decided to no longer include the address in the regulations, and instead to continue providing the address via its Web site and requiring participating flood insurance carriers to include the address in all denial letters,[1] so that it is more readily available to policyholders and so that FEMA can more easily update the address.

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[1] *See* FEMA, Memorandum For: WYO Principal Coordinators and the NFIP Direct Servicing Agent, FIMA Address Change, W–16011 (March 8, 2016), *http://www.nfipiservice.com/Stakeholder/pdf/bulletin/w-16011.pdf.*

II. Regulatory Analysis

a. Administrative Procedure Act

FEMA did not publish a Notice of Proposed Rulemaking for this regulation. FEMA finds that this rule is exempt from the Administrative Procedure Act's (5 U.S.C. 553(b)) notice and comment rulemaking requirements because it is purely procedural in nature. This rule is making a technical change to ensure the accuracy of FEMA's regulations as FIMA relocates from Arlington, Virginia to Washington, DC. FEMA believes this technical amendment is not controversial and will not result in any adverse comments. These changes do not confer any substantive rights, benefits, or obligations; therefore, this rule will have no substantive effect on the public.

Under 5 U.S.C. 553(d)(3), FEMA has determined it has good cause to make this technical amendment effective immediately, so that appellants are aware of the new address as soon as possible and their appeals will be received at the correct address.

b. Executive Order 12866, as Amended, Regulatory Planning and Review; Executive Order 13563, Improving Regulation and Regulatory Review

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, Oct. 4, 1993), accordingly FEMA has not submitted it to the Office of Management and Budget for review. As this rule involves a non-substantive change, FEMA expects that it will not impose any costs on the public.

c. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires that special consideration be given to the effects of proposed regulations on small entities. This rule does not require a Notice of Proposed Rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act.

d. Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3501–3520), FEMA reviewed this final rule and has determined that there are no new collections of information contained therein.

e. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, Nov. 9, 2000), because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

f. Executive Order 13132, Federalism

A rule has implications for federalism under Executive Order 13132, "Federalism" (64 FR 43255, Aug. 10, 1999), if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. FEMA has analyzed this rule under that Order and determined that it does not have implications for federalism.

g. Congressional Review of Agency Rulemaking

FEMA has sent this final rule to the Congress and to the Government Accountability Office under the Congressional Review of Agency Rulemaking Act (Act), Public Law 104–121, 110 Stat. 873 (March 29, 1996) (5 U.S.C. 804). The rule is not a "major rule" within the meaning of that Act and will not result in an annual effect on the economy of $100,000,000 or more. Moreover, it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. FEMA does not expect that it will have "significant adverse effects" on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

List of Subjects in 44 CFR Part 62

Claims, Flood insurance, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Federal Emergency Management Agency is amending 44 CFR part 62 as follows:

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

■ 1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

■ 2. In § 62.20, revise paragraph (e)(1) to read as follows:

§ 62.20 Claims appeals.

* * * * *

(e) * * *

(1) Submit a written appeal to FEMA within 60 days from the date of the decision.

* * * * *

Authority: 42 U.S.C. 4001 *et seq.*

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2016–08025 Filed 4–6–16; 8:45 am]

BILLING CODE 9111–A6–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 12

[PS Docket No. 14–174, FCC 15–98]

Ensuring Continuity of 911 Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's *Ensuring Continuity of 911 Communications* Report and Order's (*Order*) consumer disclosure requirement. This document is consistent with the *Order,* which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of those rules.

DATES: *Effective date:* The amendments to 47 CFR 12.5(d), published at 80 FR 62470, October 16, 2015 are effective August 5, 2016.

Compliance date: For providers with fewer than 100,000 domestic retail subscriber lines, April 1, 2017.

FOR FURTHER INFORMATION CONTACT: Linda M. Pintro, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418–7490, or email: *linda.pintro@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that, on March 21, 2016, OMB approved, for a period of three years, the information collection requirements relating to the subscriber notification rules contained in the Commission's *Order,* FCC 15–98, published at 80 FR 62470, October 16, 2015. The OMB Control Number is 3060–1217. The Commission publishes this document as an announcement of the effective date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications, Room 1–A620, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–1217, in your correspondence. The Commission will also accept your comments via email at *PRA@FCC.GOV.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on March 21, 2016, for the information collection requirements contained in the modifications to the Commission's rules in 47 CFR part 12.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1217.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Pub. L. 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1217.

OMB Approval Date: March 21, 2016.

OMB Expiration Date: March 31, 2019.

Title: Ensuring Continuity of 911 Communications Report and Order (PS Docket No. 14–174, FCC 15–98).

Form Number: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 570 respondents; 570 responses.

Estimated Time per Response: Estimated time per respondent will vary widely by respondent because of differences in their current level of backup power provisioning. Some respondents may not need to expend any resources to comply with the third party disclosure requirement, because they are already providing the service. Others may have to build the service from the ground up. And, still others may currently be providing some, but not all of the required disclosure. Consequently, a respondent may spend zero to 70 hours per initial notification.

Frequency of Response: Respondents are required to disclose the information to subscribers at the point of sale and annually thereafter.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1, 4(i), and 251(e)(3) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 251(e)(3); section 101 of the NET 911 Improvement Act of 2008, Public Law 110–283, 47 U.S.C. 615a–1; and section 106 of the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. 111–260, 47 U.S.C. 615c.

Total Annual Burden: 1,888 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information (PII) from individuals.

Privacy Act: No impact(s).

Needs and Uses: For over one hundred years, consumers have trusted that they will hear a dial tone in an emergency even when the power is out. Now, as networks transition away from copper-based, line-powered technology, many are aware of the innovation this transition has spurred in emergency services, but many consumers remain unaware that they must take action to ensure that dial tone's availability in the event of a commercial power outage. The vital importance of the continuity of 911 communications, and the Commission's duty to promote safety of life and property through the use of wire and radio communication, favor action to ensure that all consumers understand the risks associated with non-line-powered 911 service, know how to protect themselves from such risks, and have a meaningful opportunity to do so. Accordingly, on August 6, 2015, the Commission adopted the *Order* to promote continued access to 911 during commercial power outages, by requiring providers of facilities-based, fixed residential voice services that are not line powered to offer subscribers the option to purchase a backup power solution capable of 8 hours of standby power, and within three years, an additional solution capable of 24 hours of backup power. The *Order* also promotes consumer education and choice by requiring covered providers to disclose to subscribers, information about: (a) Availability of backup power sources; (b) service limitations with and without backup power during a power outage; (c) purchase and replacement options; (d) expected backup power duration; (c) proper usage and storage conditions for the backup power source; (e) subscriber backup power self-testing and monitoring instructions; and (f) backup power warranty details, if any.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2016–07845 Filed 4–6–16; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 150715616–6300–02]

RIN 0648–XE062

Pacific Island Fisheries; 2015–16 Annual Catch Limits and Accountability Measures; Main Hawaiian Islands Deep 7 Bottomfish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final specifications.

SUMMARY: NMFS specifies an annual catch limit (ACL) of 326,000 lb for Deep 7 bottomfish in the main Hawaiian Islands (MHI) for the 2015–16 fishing year. As an accountability measure (AM), if the ACL is projected to be reached, NMFS would close the commercial and non-commercial fisheries for MHI Deep 7 bottomfish for the remainder of the fishing year. The ACL and AM specifications support the long-term sustainability of Hawaii bottomfish.

DATES: The final specifications are effective from May 9, 2016, through August 31, 2016.

ADDRESSES: Copies of the Fishery Ecosystem Plan for the Hawaiian Archipelago are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel. 808–522–8220, fax 808–522–8226, or *www.wpcouncil.org.* Copies of the environmental assessment and finding of no significant impact for this action, identified by NOAA–NMFS–2015–0090, are available from *www.regulations.gov,* or from Michael D. Tosatto, Regional

Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Matthew Dunlap, NMFS PIR Sustainable Fisheries, 808–725–5177.

SUPPLEMENTARY INFORMATION: Through this action, NMFS is specifying an ACL of 326,000 lb of Deep 7 bottomfish in the MHI for the 2015–16 fishing year. The Council recommended this ACL, based on the best available scientific, commercial, and other information, taking into account the associated risk of overfishing. This ACL is 20,000 lb lower than the ACL set for the 2014–15 fishing year. The MHI Management Subarea is the portion of U.S. Exclusive Economic Zone around the Hawaiian Archipelago lying to the east of 161°20′ W. longitude. The Deep 7 bottomfish consist of onaga (*Etelis coruscans*), ehu (*E. carbunculus*), gindai (*Pristipomoides zonatus*), kalekale (*P. sieboldii*), opakapaka (*P. filamentosus*), lehi (*Aphareus rutilans*), and hapuupuu (*Hyporthodus quernus*).

The MHI bottomfish fishing year started September 1, 2015, and is currently open. NMFS will monitor the fishery, and if the fishery reaches the ACL before August 31, 2016, NMFS will, as an associated accountability measure authorized in 50 CFR 665.4(f), close the non-commercial and commercial fisheries for Deep 7 bottomfish in Federal waters through August 31. During a fishery closure for Deep 7 bottomfish, no person may fish for, possess, or sell any of these fish in the MHI. There is no prohibition on fishing for or selling other (*non*-Deep 7) bottomfish throughout the year. All other management measures continue to apply in the MHI bottomfish fishery.

You may review additional background information on this action in the preamble to the proposed specifications (81 FR 8884; February 23, 2016); we do not repeat that information here.

Comments and Responses

The comment period for the proposed specifications ended on March 9, 2016. NMFS received no public comments.

Changes From the Proposed Specifications

There are no changes in the final specifications from the proposed specifications.

Classification

The Regional Administrator, NMFS PIR, determined that this action is necessary for the conservation and management of MHI Deep 7 bottomfish, and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed specification stage that this action would not have a significant economic impact on a substantial number of small entities. NMFS published the factual basis for certification in the proposed specifications, and does not repeat it here. NMFS did not receive comments regarding this certification. As a result, a final regulatory flexibility analysis is not required, and one was not prepared.

This action is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 1, 2016.

Samuel D. Rauch,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2016–07971 Filed 4–6–16; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 67
Thursday, April 7, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2011–BT–NOA–0013]

Energy Conservation Program: Data Collection and Comparison With Forecasted Unit Sales of Five Lamp Types

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of data availability.

SUMMARY: The U.S. Department of Energy (DOE) is informing the public of its collection of shipment data and creation of spreadsheet models to provide comparisons between actual and benchmark estimate unit sales of five lamp types (*i.e.,* rough service lamps, vibration service lamps, 3-way incandescent lamps, 2,601–3,300 lumen general service incandescent lamps, and shatter-resistant lamps) that are currently not subject to energy conservation standards. As the actual sales are not greater than 200 percent of the forecasted estimate for 2015 (*i.e.,* the threshold triggering a rulemaking for an energy conservation standard) for rough service lamps, 3-way incandescent lamps, 2,601–3,300 lumen general service incandescent lamps, and shatter-resistant lamps, DOE has determined that no regulatory action pertaining to such lamps is necessary at this time. However, DOE will continue to track sales data for these exempted lamps. As discussed in the results under section IV of this document, the actual unit sales for vibration service lamps are 272.5 percent of the benchmark unit sales estimate. Therefore, an accelerated energy conservation standard rulemaking for vibration service lamps must be completed by December 31, 2016. Relating to this activity, DOE has prepared, and is making available on its Web site, a spreadsheet showing the comparisons of anticipated versus actual sales, as well as the model used to generate the original sales estimates.

DATES: DOE has determined that an accelerated energy conservation standard rulemaking for vibration service lamps must be completed by December 31, 2016.

ADDRESSES: The spreadsheet is available online at: *https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=16.*

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: *five_lamp_types@ee.doe.gov.*

Mr. Peter Cochran, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9496. Email: *peter.cochran@hq.doe.gov.*

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I. Background

The Energy Independence and Security Act of 2007 (EISA 2007; Pub. L. 110–140) was enacted on December 19, 2007. Among the requirements of subtitle B (Lighting Energy Efficiency) of title III of EISA 2007 were provisions directing DOE to collect, analyze, and monitor unit sales of five lamp types (*i.e.,* rough service lamps, vibration service lamps, 3-way incandescent lamps, 2,601–3,300 lumen general service incandescent lamps, and shatter-resistant lamps). In relevant part, section 321(a)(3)(B) of EISA 2007 amended section 325(l) of the Energy Policy and Conservation Act of 1975 (EPCA) by adding paragraph (4)(B), which generally directs DOE, in consultation with the National Electrical Manufacturers Association (NEMA), to: (1) Collect unit sales data for each of the five lamp types for calendar years 1990 through 2006 in order to determine the historical growth rate for each lamp type; and (2) construct a model for each of the five lamp types based on coincident economic indicators that closely match the historical annual growth rates of each lamp type to provide a neutral comparison benchmark estimate of future unit sales. (42 U.S.C. 6295(l)(4)(B)) Section 321(a)(3)(B) of EISA 2007 also amends section 325(l) of EPCA by adding paragraph (4)(C), which, in relevant part, directs DOE to collect unit sales data for calendar years 2010 through 2025, in consultation with NEMA, for each of the five lamp types. DOE must then: (1) Compare the actual lamp sales in that year with the benchmark estimate; (2) determine if the unit sales projection has been exceeded; and (3) issue the findings within 90 days of the end of the analyzed calendar year. (42 U.S.C. 6295(l)(4)(C))

On December 18, 2008, DOE issued a notice of data availability (NODA) for the *Report on Data Collection and Estimated Future Unit Sales of Five Lamp Types* (hereafter the "2008 analysis"), which was published in the **Federal Register** on December 24, 2008. 73 FR 79072. The 2008 analysis presented the 1990 through 2006 shipment data collected in consultation with NEMA, the spreadsheet model DOE constructed for each lamp type, and the benchmark unit sales estimates for 2010 through 2025. On April 4, 2011, DOE published a NODA in the **Federal Register** announcing the availability of updated spreadsheet models presenting the benchmark estimates from the 2008 analysis and the collected sales data from 2010 for the first annual comparison. 76 FR 18425. Similarly, DOE published NODAs in the **Federal Register** in the following four years announcing the updated spreadsheet models and sales data for the annual comparisons. 77 FR 16183 (March 20, 2012); 78 FR 15891 (March 13, 2013); 79 FR 15058 (March 18, 2014); 80 FR 13791 (March 17, 2015). This NODA presents the sixth annual comparison; specifically, section IV of this report compares the actual unit sales against benchmark unit sales estimates for 2015.[1]

EISA 2007 also amends section 325(l) of EPCA by adding paragraphs (4)(D) through (4)(H), which state that if DOE finds that the unit sales for a given lamp type in any year between 2010 and 2025 exceed the benchmark estimate of unit sales by at least 100 percent (*i.e.*, are greater than 200 percent of the anticipated sales), then DOE must take regulatory action to establish an energy conservation standard for such lamps. (42 U.S.C. 6295(l)(4)(D) through (H)) For 2,601–3,300 lumen general service incandescent lamps, DOE must adopt a statutorily prescribed energy conservation standard. For the other four types of lamps, the statute requires DOE to initiate an accelerated rulemaking to establish energy conservation standards. If the Secretary does not complete the accelerated rulemakings within one year from the end of the previous calendar year, there is a "backstop requirement" for each lamp type, which would establish energy conservation standard levels and related requirements by statute. *Id.*

As in the 2008 analysis and previous comparisons, DOE uses manufacturer shipments as a surrogate for unit sales in this NODA because manufacturer shipment data are tracked and aggregated by the trade organization, NEMA. DOE believes that annual shipments track closely with actual unit sales of these five lamp types, as DOE presumes that retailer inventories remain constant from year to year. DOE believes this is a reasonable assumption because the markets for these five lamp types have existed for many years, thereby enabling manufacturers and retailers to establish appropriate inventory levels that reflect market demand. In addition, increasing unit sales must eventually result in increasing manufacturer shipments. This is the same methodology presented in DOE's 2008 analysis and subsequent annual comparisons, and DOE did not receive any comments challenging this assumption or the general approach.

II. Definitions

A. Rough Service Lamps

Section 321(a)(1)(B) of EISA 2007 amended section 321(30) of EPCA by adding the definition of a "rough service lamp." A "rough service lamp" means a lamp that—(i) has a minimum of 5 supports with filament configurations that are C–7A, C–11, C–17, and C–22 as listed in Figure 6–12 of the 9th edition of the IESNA [Illuminating Engineering Society of North America] Lighting handbook, or similar configurations where lead wires are not counted as supports; and (ii) is designated and marketed specifically for "rough service" applications, with—(I) the designation appearing on the lamp packaging; and (II) marketing materials that identify the lamp as being for rough service. (42 U.S.C. 6291(30)(X))

As noted above, rough service incandescent lamps must have a minimum of five filament support wires (not counting the two connecting leads at the beginning and end of the filament), and must be designated and marketed for "rough service" applications. This type of incandescent lamp is typically used in applications where the lamp would be subject to mechanical shock or vibration while it is operating. Standard incandescent lamps have only two support wires (which also serve as conductors), one at each end of the filament coil. When operating (*i.e.*, when the tungsten filament is glowing so hot that it emits light), a standard incandescent lamp's filament is brittle, and rough service applications could cause it to break prematurely. To address this problem, lamp manufacturers developed lamp designs that incorporate additional support wires along the length of the filament to ensure that it has support not just at each end, but at several other points as well. The additional support protects the filament during operation and enables longer operating life for incandescent lamps in rough service applications. Typical applications for these rough service lamps might include commercial hallways and stairwells, gyms, storage areas, and security areas.

B. Vibration Service Lamps

Section 321(a)(1)(B) of EISA 2007 amended section 321(30) of EPCA by adding the definition of a "vibration service lamp." A "vibration service lamp" means a lamp that—(i) has filament configurations that are C–5, C–7A, or C–9, as listed in Figure 6–12 of the 9th Edition of the IESNA Lighting Handbook or similar configurations; (ii) has a maximum wattage of 60 watts; (iii) is sold at retail in packages of 2 lamps or less; and (iv) is designated and marketed specifically for vibration service or vibration-resistant applications, with—(I) the designation appearing on the lamp packaging; and (II) marketing materials that identify the lamp as being vibration service only. (42 U.S.C. 6291(30)(AA))

The statute mentions three examples of filament configurations for vibration service lamps in Figure 6–12 of the *IESNA Lighting Handbook,* one of which, C–7A, is also listed in the statutory definition of "rough service lamp." The definition of "vibration service lamp" requires that such lamps have a maximum wattage of 60 watts and be sold at a retail level in packages of two lamps or fewer. Vibration service lamps must be designated and marketed for vibration service or vibration-resistant applications. As the name suggests, this type of incandescent lamp is generally used in applications where the incandescent lamp would be subject to a continuous low level of vibration, such as in a ceiling fan light kit. In such applications, standard incandescent lamps without additional filament support wires may not achieve the full rated life, because the filament wire is brittle and would be subject to breakage at typical operating temperature. To address this problem, lamp manufacturers typically use a more malleable tungsten filament to avoid damage and short circuits between coils.

C. Three-Way Incandescent Lamps

Section 321(a)(1)(B) of EISA 2007 amended section 321(30) of EPCA by adding the definition of a "3-way incandescent lamp." A "3-way incandescent lamp" includes an incandescent lamp that—(i) employs 2 filaments, operated separately and in combination, to provide 3 light levels; and (ii) is designated on the lamp packaging and marketing materials as being a 3-way incandescent lamp. (42 U.S.C. 6291(30)(Y))

Three-way lamps are commonly found in wattage combinations such as 50, 100, and 150 watts or 30, 70, and 100 watts. These lamps use two filaments (*e.g.*, a 30-watt and a 70-watt filament) and can be operated separately or together to produce three different lumen outputs (*e.g.*, 305 lumens with one filament, 995 lumens with the other, or 1,300 lumens using the filaments together). When used in three-way sockets, these lamps allow users to control the light level. Three-way incandescent lamps are typically used in residential multi-purpose areas, where consumers may adjust the light level to be appropriate for the task they are performing.

D. 2,601–3,300 Lumen General Service Incandescent Lamps

The statute does not provide a definition of "2,601–3,300 Lumen General Service Incandescent Lamps;" however, DOE is interpreting this term to be a general service incandescent lamp [2] that emits light between 2,601 and 3,300 lumens. These lamps are used in general service applications when high light output is needed.

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[1] The notices and related documents for the 2008 analysis and successive annual comparisons, including this NODA, are available through the DOE Web site at: *https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=16.*

E. Shatter-Resistant Lamps

Section 321(a)(1)(B) of EISA 2007 amended section 321(30) of EPCA by adding the definition of a "shatter-resistant lamp, shatter-proof lamp, or shatter-protected lamp." "Shatter-resistant lamp, shatter-proof lamp, and shatter-protected lamp" mean a lamp that—(i) has a coating or equivalent technology that is compliant with NSF/ANSI 51 [National Sanitation Foundation/American National Standards Institute] and is designed to contain the glass if the glass envelope of the lamp is broken; and (ii) is designated and marketed for the intended application, with—(I) the designation on the lamp packaging; and (II) marketing materials that identify the lamp as being shatter-resistant, shatter-proof, or shatter-protected. (42 U.S.C. 6291(30)(Z)) Although the definition provides three names commonly used to refer to these lamps, DOE simply refers to them collectively as "shatter-resistant lamps."

Shatter-resistant lamps incorporate a special coating designed to prevent glass shards from being dispersed if a lamp's glass envelope breaks. Shatter-resistant lamps incorporate a coating compliant with industry standard NSF/ANSI 51,[3] "Food Equipment Materials," and are labeled and marketed as shatter-resistant, shatter-proof, or shatter-protected. Some types of the coatings can also protect the lamp from breakage in applications subject to heat and thermal shock that may occur from water, sleet, snow, soldering, or welding.

III. Comparison Methodology

In the 2008 analysis, DOE reviewed each of the five sets of shipment data that was collected in consultation with NEMA and applied two curve fits to generate unit sales estimates for the five lamp types after calendar year 2006. One curve fit applied a linear regression to the historical data and extended that line into the future. The other curve fit applied an exponential growth function to the shipment data and projected unit sales into the future. For this calculation, linear regression treats the year as a dependent variable and shipments as the independent variable. The linear regression curve fit is modeled by minimizing the differences among the data points and the best curve-fit linear line using the least squares function.[4] The exponential curve fit is also a regression function and uses the same least squares function to find the best fit. For some data sets, an exponential curve provides a better characterization of the historical data, and, therefore, a better projection of the future data.

For 3-way incandescent lamps, 2,601–3,300 lumen general service incandescent lamps, and shatter-resistant lamps, DOE found that the linear regression and exponential growth curve fits produced nearly the same estimates of unit sales (*i.e.,* the difference between the two forecasted values was less than 1 or 2 percent). However, for rough service and vibration service lamps, the linear regression curve fit projected lamp unit sales would decline to zero for both lamp types by 2018. In contrast, the exponential growth curve fit projected a more gradual decline in unit sales, such that lamps would still be sold beyond 2018, and it was, therefore, considered the more realistic forecast. While DOE was satisfied that either the linear regression or exponential growth spreadsheet model generated a reasonable benchmark unit sales estimate for 3-way incandescent lamps, 2,601–3,300 lumen general service incandescent lamps, and shatter-resistant lamps, DOE selected the exponential growth curve fit for these lamp types for consistency with the selection made for rough service and vibration service lamps.[5] DOE examines the benchmark unit sales estimates and actual sales for each of the five lamp types in the following section and also makes the comparisons available in a spreadsheet online: *https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=16.*

IV. Comparison Results

A. Rough Service Lamps

For rough service lamps, the exponential growth forecast projected the benchmark unit sales estimate for 2015 to be 4,967,000 units. The NEMA-provided shipment data reported shipments of 6,731,000 units in 2015. As this finding is only 135.5 percent of the estimate,[6] DOE will continue to track rough service lamp sales data and will not initiate regulatory action for this lamp type at this time.

B. Vibration Service Lamps

For vibration service lamps, the exponential growth forecast projected the benchmark unit sales estimate for 2015 to be 2,594,000 units. The NEMA-provided shipment data reported 7,071,000 vibration service lamp shipments in 2015, which is 272.5 percent of the benchmark estimate.

Section 321(a)(3)(B) of EISA 2007 in part amends paragraph 325(l)(4) of EPCA by adding paragraphs (D) through (H), which direct DOE to take regulatory action if the actual annual unit sales of any of the five lamp types are more than 200 percent of the predicted shipments (*i.e.,* more than double the benchmark unit sales estimate). (42 U.S.C. 6295(l)(4)(D)–(H)) As the actual unit sales for vibration service lamps are 272.5 percent of the benchmark estimate for the 2015 calendar year, DOE must conduct an accelerated energy conservation standards rulemaking for vibration service lamps to be completed no later than December 31, 2016. If the Secretary does not complete the accelerated rulemaking in the allotted time, the statute provides a backstop requirement that becomes the regulatory standard for vibration service lamps. This backstop requirement would establish standards beginning one year after the date of issuance of this NODA, and would require vibration service lamps to: (1) Have a maximum 40-watt limitation and (2) be sold at retail only in a package containing one lamp.

The requirement to collect and model data for vibration service lamps shall terminate unless, as part of the rulemaking, the Secretary determines that continued tracking is necessary. If, however, the Secretary imposes a backstop requirement as a result of a failure to complete the accelerated rulemaking in accordance with the statute, the requirement to collect and model data for the applicable type of lamp shall continue for two years after the compliance date of the backstop requirement. (42 U.S.C. 6295(l)(4)(I)(i) and (ii))

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[2] A "general service incandescent lamp" means a standard incandescent or halogen type lamp that—(I) is intended for general service applications; (II) has a medium screw base; (III) has a lumen range of not less than 310 lumens and not more than 2,600 lumens or, in the case of a modified spectrum lamp, not less than 232 lumens and not more than 1,950 lumens; and (IV) is capable of being operated at a voltage range at least partially within 110 and 130 volts. (42 U.S.C. 6291(30)(D)(i)).

[3] NSF/ANSI 51 applies specifically to materials and coatings used in the manufacturing of equipment and objects destined for contact with foodstuffs.

[4] The least squares function is an analytical tool that DOE uses to minimize the sum of the squared residual differences between the actual historical data points and the modeled value (*i.e.,* the linear curve fit). In minimizing this value, the resulting curve fit will represent the best fit possible to the data provided.

[5] This selection is consistent with the previous annual comparisons. See DOE's 2008 forecast spreadsheet models of the lamp types for greater detail on the estimates.

[6] The percentages reported in this section are calculated by dividing the 2015 actual sales by the 2015 projected sales. Numbers less than one hundred percent indicate the actual sales are less than the projected sales, numbers greater than one hundred percent and less than or equal to two hundred percent indicate the actual sales exceed the projected sales somewhat, and numbers greater than two hundred percent indicate the actual sales are more than double the projected sales and a rulemaking must be initiated.

C. Three-Way Incandescent Lamps

For 3-way incandescent lamps, the exponential growth forecast projected the benchmark unit sales estimate for 2015 to be 48,603,000 units. The NEMA-provided shipment data reported shipments of 32,665,000 units in 2015. As this finding is only 67.2 percent of the estimate, DOE will continue to track 3-way incandescent lamp sales data and will not initiate regulatory action for this lamp type at this time.

D. 2,601–3,300 Lumen General Service Incandescent Lamps

For 2,601–3,300 lumen general service incandescent lamps, the exponential growth forecast projected the benchmark unit sales estimate for 2015 to be 34,175,000 units. The NEMA-provided shipment data reported shipments of 4,049,000 units in 2015. As this finding is 11.8 percent of the estimate, DOE will continue to track 2,601–3,300 lumen general service incandescent lamp sales data and will not initiate regulatory action for this lamp type at this time.

E. Shatter-Resistant Lamps

For shatter-resistant lamps, the exponential growth forecast projected the benchmark unit sales estimate for 2015 to be 1,675,000 units. The NEMA-provided shipment data reported shipments of 689,000 units in 2015. As this finding is only 41.1 percent of the estimate, DOE will continue to track shatter-resistant lamp sales data and will not initiate regulatory action for this lamp type at this time.

V. Conclusion

The shipments for rough service lamps, 3-way incandescent lamps, 2,601–3,300 lumen general service incandescent lamps, and shatter-resistant lamps did not cross the statutory threshold for a standard. DOE will continue to monitor these four currently exempted lamp types and will assess 2016 sales by March 31, 2017, in order to determine whether an energy conservation standards rulemaking is required, consistent with 42 U.S.C. 6295(l)(4)(D) through (H). The actual unit sales for vibration service lamps are 272.5 of the benchmark unit sales estimate. Therefore, DOE will begin an accelerated energy conservation standard rulemaking for vibration service lamps that must be completed by December 31, 2016.

VI. Review Under the National Environmental Policy Act of 1969

DOE has determined that this proposed action falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this proposed action would find that for vibration service lamps energy conservation standards would be appropriate. However, this proposed action would not establish energy conservation standards at this time, and, therefore, would not result in any environmental impacts. Thus, this action is covered by Categorical Exclusion A6 "Procedural rulemakings" under 10 CFR part 1021, subpart D. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

Issued in Washington, DC, on March 28, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2016–07873 Filed 4–6–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. FAA–2015–1621]

Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes; Notice of Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FAA announces public meeting on its proposal to revise Part 23 Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes. The purpose of the public meeting is for the FAA to explain and answer questions concerning the language related to its Notice of Proposed Rulemaking (NPRM) (81 FR 13452, March 14, 2016).

DATES: The public meetings will be held on the following dates: (Note that the meetings may be adjourned early if the agenda is completed in less time than is scheduled for the meetings.)

- May 3, 2016 from 8:00 a.m. until no later than 5:00 p.m.
- May 4, 2016 from 8:00 a.m. until no later than 5:00 p.m.

The NPRM written comment period will close on May 13, 2016.

ADDRESSES: The May 3 and 4, 2016, public meeting will be held at the Georgia International Convention Center, 2000 Convention Center Concourse, College Park, GA 30294.

Written comments (identified by docket number FAA–2015–1621) may be submitted using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.
- *Hand Delivery:* Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Written comments to the docket will receive the same consideration as statements made at the public meeting. For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov,* including any personal information provided by the commenter. Using the search function of the FAA's docket Web site, anyone can find and read the comments received into any of the agency's dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement may be reviewed in the **Federal Register** published on April 11, 2000 (65 FR 19476) or at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time or in Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Lowell Foster, Small Airplane Directorate, ACE–111, Federal Aviation Administration, 901 Locust Street, Kansas City, MO 64106; telephone (816) 329–4125, facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Background

On March 14, 2016, the FAA published a Notice of Proposed Rulemaking (NPRM) titled "Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes". The FAA proposes in this NPRM to amend its airworthiness standards for normal, utility, acrobatic, and commuter category airplanes by removing current prescriptive design requirements and replacing them with performance-based airworthiness standards. The proposed standards would also replace the current weight and propulsion divisions in part 23 with performance- and risk-based divisions for airplanes with a maximum seating capacity of 19 passengers or less and a maximum takeoff weight of 19,000 pounds or less. The proposed airworthiness standards are based on, and would maintain, the level of safety of the current part 23. Finally, the FAA proposes to adopt additional airworthiness standards to address certification for flight in icing conditions, enhanced stall characteristics, and minimum control speed to prevent departure from controlled flight for multiengine airplanes. The NPRM addresses the Congressional mandate set forth in the *Small Airplane Revitalization Act of 2013*[1] (Pub. L. 113–53, 49 U.S.C. 44704 note).

Purpose of the Public Meetings

The purpose of the public meetings is for the FAA to discuss the NPRM, hear the public's questions, address any confusion, and obtain information relevant to the final rule under consideration. The FAA will consider comments made at the public meetings before making a final decision on issuance of the final rule.

Public Meeting Procedures

A panel of representatives from the FAA will be present. An FAA representative will facilitate the meetings in accordance with the following procedures:

(1) There will be no admission fees or other charges to attend or to participate in the public meetings. The meetings will be open to all persons, subject to availability of space in the meeting room. The FAA will make every effort to accommodate all persons wishing to attend. The FAA asks that participants sign in between 7:00–8:00 a.m. on the day of the meeting being attended. The meetings may adjourn early if the agenda items are completed in less time than is scheduled for the meetings.

(2) The meetings will be recorded by a court reporter. A transcript of the meetings and all material accepted by the panel during the meetings will be included in the public docket, unless protected from disclosure. Each person interested in purchasing a copy of a transcript should contact the court reporter directly. Information on how to purchase a transcript will be available at the meetings.

Issued in Washington, DC, on April 1, 2016.

James M. Crotty,

Acting Director, Office of Rulemaking.

[FR Doc. 2016–07943 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 382

[Docket No. DOT–OST–2015–0246]

RIN 2105–AE12

Nondiscrimination on the Basis of Disability in Air Travel; Establishment of a Negotiated Rulemaking Committee

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice of intent to establish the Accessible Air Transportation (ACCESS) Advisory Committee; Solicitation of applications and nominations for membership.

SUMMARY: The Department of Transportation ("Department," "DOT," or "we") announces its intent to establish a negotiated rulemaking (Reg–Neg) committee to negotiate and develop proposed amendments to the Department's disability regulation on three issues: Whether to require accessible inflight entertainment (IFE) and strengthen accessibility requirements for other in-flight communications; whether to require an accessible lavatory on new single-aisle aircraft over a certain size; and whether to amend the definition of "service animals" that may accompany passengers with a disability on a flight. The committee will include representatives of organizations or groups with interests that are affected significantly by the subject matter of the proposed regulation.

The Department anticipates that the interested parties may include disability advocacy organizations, airlines, airports, and aircraft manufacturers. The Department seeks comment on the establishment of the Accessible Air Transportation (ACCESS) Advisory Committee, the issues to be addressed, and the proposed list of stakeholder types to be represented on the Committee. We also invite nominations or applications for membership on the ACCESS Advisory Committee. To the extent it can do so consistent with the goal of ensuring effective representation and necessary expertise, the Department will select individuals who reflect the diversity among the organizations or groups represented.

DATES: Comments and nominations for Committee membership must be received on or before April 21, 2016.

ADDRESSES: You may submit comments using any one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202 493–2251. To avoid duplication, please use only one of these four methods. See the "Submitting Comments" portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments. In all cases, please identify your comment with docket number DOT–OST–2015–0246.

FOR FURTHER INFORMATION CONTACT: If you have questions about the regulatory negotiation, you may contact Livaughn Chapman or Blane A. Workie, Office of the Aviation Enforcement and Proceedings, U.S. Department of Transportation, by email at *livaughn.chapman@dot.gov* or *blane.workie@dot.gov* or by telephone at 202–366–9342. To obtain a copy of this notice of intent in an accessible format, you may also contact Livaughn Chapman.

SUPPLEMENTARY INFORMATION:

Submitting Comments

If you submit a comment, please include the docket number for this notice of intent (DOT–OST–2015–0246), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, by mail, by hand delivery, or by fax. Please use only one of these methods. DOT recommends that you include your name and a mailing address, an email address, or a phone number with your comments so that DOT can contact you if there are questions regarding your submission. All comments and material received in the docket during this comment period will be given consideration and become part of the record in this rulemaking proceeding. We will consider to the extent practicable all comments and material received in the docket after the comment period ends.

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[1] *https://www.congress.gov/bill/113th-congress/house-bill/1848/text.*

Viewing Comments and Documents

You may view comments on this notice of intent, as well as any documents mentioned in this preamble as being available in the docket at *http://www.regulations.gov.* After entering the docket number, click the link to "Open Docket Folder" and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays.

Submitting Nominations

All nomination materials should be submitted electronically via email to *accesscommittee@dot.gov.* Any person needing accessibility accommodations should contact Livaughn Chapman, Chief, Aviation Civil Rights Compliance Branch, Office of Aviation Enforcement and Proceedings, at (202) 366–9342.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Background

On December 7, 2015, the Department published a notice in the **Federal Register** announcing its intent to consider a Reg-Neg on six issues—(1) inflight entertainment accessibility; (2) supplemental medical oxygen; (3) service animals; (4) accessible lavatories on single-aisle aircraft; (5) seating accommodations; and (6) carrier reporting of disability service requests.[1] On January 5, 2016, the Department subsequently announced an extension of the 30-day comment period to January 21, 2016.[2] At the close of the comment period, we had received nearly 70 comments. To date, we have received close to 90 comments. The Department also announced that we had hired a neutral convener, Mr. Richard Parker, a professor of law at the University of Connecticut School of Law, to speak with representatives from among the organizational interests mentioned above about the feasibility of conducting a Reg-Neg on these six issues. Mr. Parker conducted interviews with 46 different stakeholders representing these interests and prepared a convening report to DOT on the feasibility of conducting the negotiated rulemaking under consideration. The convening report is available in the rulemaking docket at DOT–OST–2015–0246. Based on the convening report, the comments received on the December notice, and on the statutory factors in the Negotiated Rulemaking Act (5 U.S.C. 563), DOT decided that it would be in the public interest to establish a negotiated rulemaking committee (5 U.S.C. 564) with a narrower scope. Chief among the statutory factors we considered in our decision was whether a Committee could be assembled that would fairly represent all affected interests, negotiate in good faith, and offer a reasonable likelihood of reaching a consensus on the issues. We determined that the following three issues were the most suitable for the Reg-Neg: (1) Whether to require accessible inflight entertainment (IFE) and strengthen accessibility requirements for other in-flight communications; (2) whether to require an accessible lavatory on single-aisle new aircraft over a certain size; and (3) whether to amend the definition of "service animals" that may accompany passengers with a disability on a flight. The Department intends to address the remaining issues (supplemental medical oxygen, seating accommodations, and carrier reporting of disability service requests) through other actions.

In selecting these three issues for the Reg-Neg, the Department considered the impact of the issues on all the affected stakeholders and the likelihood of the Committee reaching agreement on recommendations to the Department. Concerns expressed across interest groups about service animals on aircraft suggested that stakeholders would be motivated to come to agreement on their recommendations. While the differences among stakeholders on IFE accessibility were greater, there were other indications that consensus recommendations may be achievable and that Committee deliberations might furnish highly relevant and useful information and insight to guide Departmental rulemaking deliberations in any event. For example, new technologies and methods for providing IFE have created more accessible onboard entertainment and communications options at lower cost than ever before. Although lavatory accessibility on single aisle aircraft is perhaps the longest standing and the most controversial of the issues considered for the Reg-Neg, we believe that there are significant advantages to including it. The Reg-Neg process will serve to educate all the parties about the state of the art in lavatory accessibility and allow stakeholders to identify regulatory options and share information on their costs and benefits. We believe these stakeholder discussions will enhance the possibility of reaching agreement on proposals to recommend to the Department, and in furnishing useful information to guide the Department's rulemaking if consensus is not reached. For the above reasons, we believe that the scope of the rulemaking should focus on these issues.

The Department acknowledges the views and concerns of all the participants in the convening process and is committed to addressing the issues of supplemental medical oxygen, seating accommodations, and carrier reporting of disability service requests as appropriate in subsequent rulemaking or other actions.

The Secretary of Transportation has approved a charter to govern the activities of the ACCESS Advisory Committee in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. In accordance with section 14 of FACA, the charter provides for the ACCESS Advisory Committee to remain in existence for two years after the filing date unless sooner terminated or renewed. However, the Department intends to complete the Reg-Neg for the proposed rule in 2016 and to publish a Notice of Proposed Rulemaking (NPRM) in 2017.

This notice of intent requests nominations for members of the Committee to ensure a wide range of member candidates and a balanced committee. The Secretary of Transportation will appoint approximately 25 Committee members, including a representative of DOT, who will each serve until the stated objectives of the Committee have been accomplished (*i.e.,* the Committee submits its recommendation to the Secretary). The Committee is expected to meet every month from May to October 2016. Members should be senior level officials who can commit their organizations and who either are experts on accessibility with respect to the topics of interest to their organizations or who have access to such experts.

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[1] 80 FR 75953 (December 7, 2015).

[2] 81 FR 193 (January 5, 2016).

The Department will choose the Committee members based on four main criteria: (1) Representativeness (does the applicant represent a significant stakeholder group that will be substantially affected by the final rule); (2) expertise (does the applicant bring essential knowledge, expertise and/or experience regarding accessibility and the topic area(s) of interest that will enrich the discussion of the available options and their respective costs and benefits); (3) balance (does the slate of selected applicants comprise a balanced array of representative and expert stakeholders); and (4) willingness to participate fully (is the applicant able and willing to attend the listed meetings and associated working group conference calls, bring in other experts from the applicant's organization as needed and relevant, bargain in good faith, and generally contribute constructively to a rigorous policy development process).

Subject to change based on information received in response to this notice of intent, DOT proposes for public comment the following list of stakeholder categories to be members of the Committee:

- U.S. Department of Transportation
- Airlines (1 representative each from 2 large U.S. airlines, 2 large foreign airlines, 1 regional U.S. air carrier, 1 low-cost US air carrier, and 1 charter carrier to be determined)
- Cross-disability advocacy groups (2 representatives to be determined)
- Consumer groups (1 representative to be determined)
- Professional associations of flight attendants (1 representative to be determined)
- Advocacy groups for blind and visually impaired individuals (2 representatives to be determined)
- Advocacy Groups representing service animal users (1 representative to be determined)
- Advocacy Groups representing people with psychiatric disabilities (1 representative to be determined)
- Providers, manufactures, or experts of IFE products, systems, and services (2 representatives to be determined)
- Advocacy groups representing deaf and hard of hearing individuals (2 representatives to be determined)
- Academic or non-profit institutions having technical expertise in accessibility research and development (2 representatives to be determined)
- Aircraft manufacturers (2 representatives to be determined)
- Advocacy groups representing individuals with mobility disabilities (2 representatives to be determined)

We believe that the aforementioned stakeholder categories represent the interests significantly affected by this rulemaking. Organizations from each stakeholder category may nominate a candidate for Committee membership from their own organization, or jointly nominate a candidate to represent their collective interests. The list is not presented as a complete or exclusive list of stakeholder categories from which Committee members will be selected. The list merely indicates the stakeholder categories that DOT tentatively has identified as representing significantly affected interests in the proposed rule to enhance requirements for accessibility in air transportation. All individuals or organizations who wish to be selected to serve on the Committee should submit an application, regardless of whether their stakeholder category appears on the above list. If anyone believes their interests would not be adequately represented by one or more of these categories, they should document that assertion in their comment and/or their application for membership on the Committee. DOT requests comments and suggestions regarding its tentative list of significantly affected stakeholder categories from which potential members of the Committee may be selected.

Individuals applying for membership should keep in mind that Committee members will be selected to represent not only the interest of that individual's own organization but rather the collective stakeholder interests of organizations in the same stakeholder category. For example, an individual from a large U.S. airline selected to serve on the Committee would represent not only its airline but all large U.S. airlines. As such, the individual would be expected to consult with other large airlines in bringing issues to the table and making decisions on proposals before the Committee.

Working groups may be formed to address the specific ACCESS Advisory Committee issues. These working groups will include Committee members but may also include experts or representatives who are not Committee members. Such working groups will report back to the ACCESS Advisory Committee. The experience of past Reg-Negs has been that working groups play a vital role in the policy development process and deliberations. They provide both Committee Members and non-Members an important opportunity for meaningful participation and interaction in identifying and weighing options and alternatives. The Department's Office of Aviation Enforcement and Proceedings will provide appropriate funding, logistics, administrative, and technical support for the Committee and its working groups. DOT subject matter experts, attorneys, and economists will also provide support to the Committee and work groups. A Web site for Committee members, working group members, and the public to access online general information, meeting announcements, agendas, and minutes, as well as Committee and working group work products will be established at *https://www.transportation.gov/airconsumer/accesscommittee.*

At this time, we anticipate that the ACCESS Advisory Committee will have six two-day meetings in Washington DC. We propose to hold the meetings on the following dates: First meeting, May 17–18; second meeting, June 14–15; third meeting, July 11–12; fourth meeting, August 16–17; fifth meeting, September 22–23, and the sixth and final meeting, October 13–14. Individuals interested in serving on the Committee should plan to attend each of these meetings in person. When appropriate, designees will be permitted.

Process and Deadline for Submitting Nominations: Organizations and/or persons who believe they meet the criteria listed above are invited to apply for membership on the ACCESS Advisory Committee to represent the stakeholder interests of their organizational category with respect to the proposed issues. Organizational applicants should indicate both the stakeholder category they propose to represent and the individual from their organization applying to serve on the Committee; describe the responsibilities and qualifications of that person; and describe the qualifications of any alternates or professional colleagues who will be assisting the principal representative in the process.

Qualified individuals can self-nominate or be nominated by any stakeholder or stakeholder organization. To be considered for the ACCESS

Advisory Committee, nominators should submit the following information:

(1) Name, title, and relevant contact information (including phone and email address) and a description of the issues addressed in this rulemaking that such individual is qualified to address, and the interests such a person shall represent;

(2) A letter of support from a company, union, trade association, or non-profit organization on letterhead containing a brief description why the nominee is qualified and should be considered for membership to the extent the nominee proposes to represent parties with interest in this proceeding;

(3) A written commitment that the applicant or nominee shall actively participate in good faith in the development of the rule under consideration;

(4) Short biography of nominee including professional and academic credentials;

(5) An affirmative statement that the nominee meets all Committee eligibility requirements; and

(6) If applicable, the reason(s) that the parties identified in this notice of intent as affected interests and stakeholders do not adequately represent the interest of the person submitting the application or nomination.

All individuals representing a stakeholder interest who wish to serve on the Reg-Neg Committee should apply for membership by supplying the information listed above. Please do not send company, trade association, or organization brochures or any other information. Materials submitted should total two single-spaced pages or less. Should more information be needed, DOT staff will contact the nominee, obtain information from the nominee's past affiliations, or obtain information from publicly available sources, such as the Internet. Nominations may be emailed to *accesscommittee@dot.gov.* Nominations must be received by April 21, 2016.

Nominees selected for appointment to the Committee will be notified of appointment by email. Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure that recommendations to the Secretary take into account the needs of the diverse groups served by DOT, membership shall include, to the extent practicable, individuals with demonstrated ability to represent persons with disabilities, minorities, and women. The Department will file any comments it receives on this notice of intent in docket DOT–OST–2015–0246. Notice to the public will be published in the **Federal Register** at least 15 days prior to each plenary meeting of the ACCESS Advisory Committee and members of the public will be invited to attend.

Issued under the authority of delegation in 49 CFR 1.27.

Dated: April 4, 2016.

Kathryn B. Thomson,

General Counsel.

[FR Doc. 2016–08062 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2016–OSERS–0005; CFDA Number: 84.160C.]

Proposed Priority—Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are Deaf-Blind program

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority under the Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are Deaf-Blind program. The Assistant Secretary may use this priority for competitions in fiscal year 2016 and later years. We take this action to provide training and technical assistance to better prepare novice interpreters to become highly qualified nationally certified sign language interpreters.

DATES: We must receive your comments on or before May 9, 2016.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the "help" tab.
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these proposed regulations, address them to Kristen Rhinehart-Fernandez, U.S. Department of Education, 400 Maryland Avenue SW., Room 5062, Potomac Center Plaza (PCP), Washington, DC 20202–5076.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Kristen Rhinehart-Fernandez. Telephone: (202) 245–6103 or by email: *Kristen.Rhinehart@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priority, we urge you to identify clearly the specific section of the proposed priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

Specific Issues Open for Comment: In addition to your general comments and recommended clarifications, we seek input on the proposed design of the Experiential Learning Model Demonstration Center for Novice Interpreters and Baccalaureate Degree ASL-English Interpretation Programs (Center) and expectations for implementation. We are particularly interested in your feedback on the following questions:

- Are the proposed required project activities appropriate? Are there any additional project activities beyond those included in the proposed priority that should be considered? For example, are there any specific activities that may be strongly associated with long-term success for ASL-English interpreters that we have not included? If so, please specify what additional activities should be required and why.

- Under the Training Activities section of the proposed priority, we proposed a team of individuals to work with novice interpreters. Are the proposed roles for interpreter advisors and trained mentors clear and appropriate? Should the roles and responsibilities of the interpreter advisor and mentor be changed or combined? In your experience, how might qualified interpreters work with novice interpreters differently than trained mentors? Should these roles be more or less prescriptive than what we have outlined in the proposed priority?
- In the proposed priority, the Center is expected to plan and design the curriculum, develop training modules, and implement a pilot experiential learning program within the first two years of the grant period. Is this timeline reasonable? If not, what timeline should be required for these expected project deliverables?
- In addition to national certification, such as, for example, the Registry of Interpreters for the Deaf (RID) National Interpreter Certification (NIC) tests, what measures for assessing the improvement in a novice interpreter's skills should be required?
- How many cohorts should be required to complete the experiential learning program within the five-year project period? Should the Department require a certain number of novice interpreters per cohort, and, if so, how many?
- Beyond requiring a logic model and a project evaluation, are there any unique or additional strategies to ensure that the program evaluation framework is infused throughout the planning, designing, and implementation of the experiential learning curriculum that the Department should include? If so, please specify.

During and after the comment period, you may inspect all public comments about this proposed priority by accessing Regulations.gov. You may also inspect the comments in room 5062, 550 12th Street SW., PCP, Washington, DC 20202–5076, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays. Please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: Under the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act (WIOA), the Rehabilitation Services Administration (RSA) makes grants to public and private nonprofit agencies and organizations, including institutions of higher education, to establish interpreter training programs or to provide financial assistance for ongoing interpreter training programs to train a sufficient number of qualified interpreters throughout the country. The grants are designed to train interpreters to effectively interpret and transliterate using spoken, visual, and tactile modes of communication; ensure the maintenance of the interpreting skills of qualified interpreters; and provide opportunities for interpreters to improve their skills in order to meet both the highest standards approved by certifying associations and the communication needs of individuals who are deaf or hard of hearing and individuals who are deaf-blind.

Program Authority: 29 U.S.C. 772(a) and (f).

Applicable Program Regulations: 34 CFR part 396.

Proposed Priority:

This notice contains one proposed priority.

Experiential Learning Model Demonstration Center for Novice Interpreters and Baccalaureate Degree ASL-English Interpretation Programs.

Background:

Over the last 20 years, the fields of interpreting and interpreter training have changed significantly in response to the evolving needs of deaf[1] children and adults in the United States, which include deaf consumers of the Vocational Rehabilitation (VR) system. The need for interpreting services continues to exceed the available supply of qualified interpreters.

Interpreters must be qualified to work with both individuals with a range of linguistic competencies from a variety of cultural backgrounds and individuals with disabilities. For example, the first language of many deaf individuals is either spoken English or a foreign spoken language, and their second language is ASL. This is, in part, a result of advances in medical treatments, such as an increase in the early detection and intervention of hearing loss in newborns and an increase in the use of cochlear implants. In addition, deaf individuals who have co-occurring disabilities (including co-occurring disabilities that affect speech and language skills, upper extremity motor coordination, and cognition) likely require specialized supports to experience linguistic and communication access to the general environment. Further still, there are an increasing number of deaf individuals from minority and immigrant communities who have unique characteristics related to culture, language, family structure, income and socioeconomic background, and refugee experience, as well as complex and diverse communication needs (Cogen and Cokely). These shifts in how deaf individuals acquire and use language make the task of interpreting more difficult.

In addition, expanding requirements in video relay interpreting and video remote interpreting, the establishment of new "national" standards and credentials for interpreters to work in specific settings (*e.g.,* interpreting in mental health and legal settings), and the development of State-specific licensure, certification, registration, or other requirements (*e.g.,* background and criminal checks to work in certain facilities) all have put a strain on the availability of qualified interpreters.

Finally, interpreters need additional education, training, and experience in order to meet certification standards. For example, in July 2012, a precondition was added for candidates sitting for RID National Interpreter Certification Test requiring them to have, at a minimum, a baccalaureate degree in any field or major, or a demonstrated educational equivalency, before being permitted to take the examination.

In 2014, RID awarded 280 new credentials, and of those, 186 represented the NIC. RID reported an 87 percent pass rate for the knowledge exam but only a 26 percent pass rate for the performance exam. This problem is exacerbated by the length of time between graduating from an ASL-English Interpretation program and achieving national certification. On average, the length of time is 19–24 months (Cogen and Cokely, 2015). This could be longer if a candidate does not initially pass the NIC exam, due to a mandatory six-month waiting period before a candidate is eligible to retest.

Many graduates find work within six months to one year of graduation, but in most cases, these interpreting assignments are too complex and are therefore inappropriate for their skill levels. These situations provide little or no opportunities for support and professional growth. Additional education, training, and experience are needed for novice interpreters to bridge this graduation-to-credential gap and to gain sufficient skills to interpret effectively.

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[1] As used in this notice, the word "deaf" refers to (1) 'deaf' and 'Deaf' people, *i.e.* to the condition of deafness; (2) to 'deaf, hard of hearing, and Deaf-Blind'; and (3) to individuals who are culturally Deaf and who use American Sign Language (ASL). "Deaf" refers only to the third group.

In sum, the pool of qualified interpreters is insufficient to meet the needs of deaf consumers in the United States. To address this problem, the Assistant Secretary proposes a priority to establish a model demonstration center to better prepare novice interpreters to become nationally certified sign language interpreters.

Interpreters must also be able to understand and communicate proficiently using technical vocabulary and highly specialized discourse in a variety of complex subject matters in both English and ASL. Training, even for experienced interpreters, in specialized settings is needed, and for this reason, we are publishing a notice of proposed priority focusing on interpreter training in specialized areas elsewhere in this issue of the **Federal Register**.

References:

Cogen, Cathy, M.Ed., and Cokely, Dennis, Ph.D., "Preparing Interpreters for Tomorrow: Report on a Study of Emerging Trends in Interpreting and Implications for Interpreter Education" (National Interpreter Education Center at Northeastern University, January 2015).

Registry of Interpreters for the Deaf "Fiscal Year 2014 Annual Report" available at *www.rid.org/2014-annual-report/#certification*

Proposed Priority:

The purpose of this priority is to fund a cooperative agreement for the establishment of a model demonstration center (Center) to: (1) Develop an experiential learning program that could be implemented through baccalaureate degree ASL-English programs or through partner organizations, such as community-based organizations, advocacy organizations, or commissions for the Deaf or deaf-blind that work with baccalaureate degree ASL-English programs to provide work experiences and mentoring; (2) pilot the experiential learning program in three baccalaureate degree ASL-English programs or partner organizations and evaluate the results; and (3) disseminate practices that are promising or supported by evidence, examples, and lessons learned.

The Center must be designed to achieve, at a minimum, the following outcomes:

(a) Increase the number of certified interpreters.

(b) Reduce the average length of time it takes for novice interpreters to become nationally certified after graduating from baccalaureate degree ASL-English interpretation programs; and

(c) Increase the average number of hours that novice interpreters, through the experiential learning program, interact with and learn from the local deaf community.

Project Activities

To meet the requirements of this priority, the Center must, at a minimum, conduct the following activities:

Establish a consortium

(a) The applicant must establish a consortium of training and technical assistance (TA) providers or use an existing network of providers to design and implement a model experiential learning program. An eligible consortium must be comprised of a designated lead entity that operates a baccalaureate degree ASL-English interpretation program that is recognized and accredited by CCIE; and

(b) Members of the consortium must be staffed by or have access to experienced and certified interpreters, interpreter educators, and trained mentors with capability in providing feedback and guidance to novice interpreters, and in serving as language models; and who are geographically dispersed across the country, including the territories, or are able to provide training, TA, and mentoring remotely to broad sections of the country.

Training Activities

(a) In years one and two, design and implement an experiential learning program that is based upon promising and best practices or modules in the preparation of novice interpreters to become certified interpreters. The program design must, at a minimum:

(1) Ensure that all activities are offered at no-cost to participants during the program.

(2) Include a team comprised of native language users, qualified interpreters, and trained mentors to partner with novice interpreters during and after successful completion of the experiential learning program. Roles for team members must include but are not limited to:

(i) Native language users who will serve as language models;

(ii) Qualified interpreters who will act in an advisory role by observing, providing feedback, and discussing the novice interpreter's ability to accurately interpret spoken English into ASL and ASL into spoken English in a variety of situations for a range of consumers; and

(iii) Provide mentoring to novice interpreters, as needed. This may include one-on-one instruction to address specific areas identified by the advisor as needing further practice, as well as offering tools, resources, and guidance to novice interpreters to prepare them for potential challenges they may encounter as they grow and advance in the profession. One-on-one instruction may address, but is not limited to, meaning transfer (*e.g.,* accurately providing an equivalent message and/or appropriately handling register), ethical behavior, meeting the consumer's linguistic preference, managing the flow of information (*e.g.,* pace, density, turn-taking), and other related aspects of the interpreting task.

(3) Provide multiple learning opportunities, such as an internship with a community program, mentoring, and intensive site-specific work. Intensive site-specific work may task a novice interpreter, under close direction from the advisor interpreter, with providing interpreting services to deaf individuals employed at a work site, or to deaf students taking courses at college or enrolled in an apprenticeship program. Other learning modalities may be proposed and must include adequate justification.

(4) Emphasize innovative instructional delivery methods, such as distance learning or block scheduling (*i.e.,* a type of academic scheduling that offers students fewer classes per day for longer periods of time) that would allow novice interpreters to more easily participate in the program (*i.e.,* participants who need to work while in the program, have child care or elder care considerations, or live in geographically isolated areas);

(5) Provide experiential learning that engages novice interpreters with different learning styles;

(6) Provide interpreting experiences with a variety of deaf consumers who have different linguistic and communication needs and preferences, and are located in different settings, including VR settings (*e.g.,* VR counseling, assessments, job-related services, training, pre-employment transition services, transition services, post-employment services, etc.), American Job Centers, and other relevant workforce partner locations;

(7) Require novice interpreters to observe, discuss, and reflect on the work of the advisor interpreter;

(8) Require novice interpreters to interpret in increasingly more complex and demanding situations. The advisor interpreter must provide written and

oral feedback that includes strengths and areas of improvement, as well as a discussion with the novice interpreter about interpretation options, ethical behavior, and how best to meet the communication needs of a particular consumer; and

(b) Pilot the experiential learning program in a single site by year two and expand to additional sites beginning in year three. Applicants must:

(1) Identify at least three existing baccalaureate degree ASL-English interpretation programs to serve as the pilot sites. The baccalaureate programs must use a curriculum design that is based upon current best practices in the ASL-English Interpreter Education profession;

(2) Identify cohorts for each pilot site and provide a plan to ensure that at least one cohort is completed in each pilot site prior to the end of the project period. The cohorts must comprise graduates from baccalaureate degree ASL-English interpretation programs who are preparing for, or have not passed, the NIC knowledge and performance exams and who intend to work as interpreters. Applicants may determine the number of cohorts for each pilot site as well as the number of participants in each cohort;

(3) Establish additional criteria for selection in the program. This may include, but is not limited to, submission of an application, relevant assessments, interviews with prospective participants, and recommendations from faculty at baccalaureate degree ASL-English interpretation programs;

(c) Conduct a formative and summative evaluation. At a minimum, this must include:

(1) An assessment of participant outcomes from each cohort that includes, at a minimum, level of knowledge and practical skill levels using pre- and post-assessments; feedback from novice interpreters, from interpreter advisors, including written feedback from observed interpreting situations, from deaf consumers, from trained mentors, including written feedback from mentoring sessions, and from others, as appropriate;

(2) Clear and specific measureable outcomes that include, but are not limited to:

(i) Improvement in specific linguistic competencies, as identified by the applicant, in English and ASL;

(ii) Improvement in specific competencies, as identified by the applicant, in ASL-English interpretation;

(iii) Outcomes in achieving national certification; and

(iv) The length of time for novice interpreters to become nationally certified sign language interpreters after participating in this project compared to the national average of 19–24 months.

Technical Assistance and Dissemination Activities

Conduct TA and dissemination activities that must include:

(a) Preparing and broadly disseminating TA materials related to practices that are promising or supported by evidence and successful strategies for working with novice interpreters;

(b) Establishing and maintaining a state-of-the-art information technology (IT) platform sufficient to support Webinars, teleconferences, video conferences, and other virtual methods of dissemination of information and TA.

Note: All products produced by the Center must meet government- and industry-recognized standards for accessibility, including section 508 of the Rehabilitation Act.

(c) Developing and maintaining a state-of-the-art archiving and dissemination system that—

(1) Provides a central location for later use of TA products, including curricula, audiovisual materials, Webinars, examples of practices that are promising or supported by evidence, and any other relevant TA products; and

(2) Is open and available to the public.

(d) Provides a minimum of two Webinars or video conferences over the course of the project to describe and disseminate information to the field about results, challenges, solutions, and practices that are promising or supported by evidence.

Note: In meeting the requirements for paragraphs (a), (b), and (c) of this section, the Center either may develop new platforms or systems or may modify existing platforms or systems, so long as the requirements of this priority are met.

Coordination Activities

(a) Establish an advisory committee. To effectively implement the *Training Activities* section of this priority, the applicant must establish an advisory committee that meets at least semi-annually. The advisory committee must include representation from all affected stakeholder groups (*i.e.*, interpreters, interpreter training programs, deaf individuals, and VR agencies) and may include other relevant groups. The advisory committee will advise on the strategies for establishing sites to pilot the experiential learning program, the approaches to the experiential learning program, modifications to experiential learning activities, TA, sustainability planning, evaluating the effectiveness of the program, as well as other relevant areas as determined by the consortium.

(b) Establish one or more communities of practice [2] that focus on project activities in this priority and that act as vehicles for communication and exchange of information among participants in the experiential learning program, as well as other relevant stakeholders;

(c) Communicate, collaborate, and coordinate, on an ongoing basis, with other relevant Department-funded projects, as applicable; and

(d) Maintain ongoing communication with the RSA project officer and other RSA staff as required.

Application Requirements

To be funded under this priority, applicants must meet the application requirements in this priority. RSA encourages innovative approaches to meet the following requirements:

(a) Demonstrate, in the narrative section of the application under "Significance of the Project," how the proposed project will address the need for nationally certified sign language interpreters. To meet this requirement, the applicant must:

(1) Demonstrate knowledge of English/ASL competencies that novice interpreters must possess in order to enter and to complete an experiential learning program and, at the end of the program, to successfully obtain national certification;

(2) Demonstrate knowledge of practices that are promising or supported by evidence in training novice interpreters; and

(3) Demonstrate knowledge of practices that are promising or supported by evidence in providing experiential learning.

(b) Demonstrate, in the narrative section of the application under "Quality of Project Services," how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have historically been underrepresented based on race, color, national origin, gender, age, or disability in accessing postsecondary education and training.

(2) Identify the needs of intended recipients of training; and

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[2] A community of practice (CoP) is a group of people who work together to solve a persistent problem or to improve practice in an area that is important to them and who deepen their knowledge and expertise by interacting on an ongoing basis. CoPs exist in many forms, some large in scale that deal with complex problems, others small in scale that focus on a problem at a very specific level. For more information on communities of practice, see: *www.tadnet.org/pages/510.*

(3) Ensure that project activities and products meet the needs of the intended recipients by creating materials in formats and languages that are accessible;

(4) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must identify and provide—

(i) Measurable intended project outcomes;

(ii) Evidence of an existing Memorandum of Understanding or a Letter of Intent between the Center and proposed training and TA providers to establish a consortium that includes a description of each proposed partner's anticipated commitment of financial or in-kind resources (if any), how each proposed provider's current and proposed activities align with those of the proposed project, how each proposed provider will be held accountable under the proposed structure, and evidence to demonstrate a working relationship between the applicant and its proposed partners and key stakeholders and other relevant groups; and

(iii) A plan for communicating, collaborating, and coordinating with an advisory committee; key staff in State VR agencies, such as State Coordinators for the Deaf; State and local partner programs; Registry of Interpreters for the Deaf, Inc.; RSA partners, such as the Council of State Administrators of Vocational Rehabilitation, the National Council of State Agencies for the Blind; and relevant programs within the Office of Special Education and Rehabilitative Services (OSERS).

(3) Use a conceptual framework to design experiential learning activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables and any empirical support for this framework.

(4) Be based on current research and make use of practices that are promising or supported by evidence. To meet this requirement, the applicant must describe—

(i) How the current research about adult learning principles and implementation science will inform the proposed TA; and

(ii) How the proposed project will incorporate current research and practices that are promising or supported by evidence in the development and delivery of its products and services.

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe its proposed activities to identify or develop the knowledge base for practices that are promising or supported by evidence in experiential learning for novice interpreters;

(6) Develop products and implement services to maximize the project's efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes; and

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration.

(c) In the narrative section of the application under "Quality of the Evaluation Plan," include an evaluation plan for the project. To address this requirement, the applicant must describe—

(1) Evaluation methodologies, including instruments, data collection methods, and analyses that will be used to evaluate the project;

(2) Measures of progress in implementation, including the extent to which the project's activities and products have reached their target populations; intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals and objectives of the proposed project, as described in its logic model,[3] have been met;

(3) How the evaluation plan will be implemented and revised, as needed, during the project. The applicant must designate at least one individual with sufficient dedicated time, experience in evaluation, and knowledge of the project to support the design and implementation of the evaluation. Tasks may include, but are not limited to, coordinating with the advisory committee and RSA to revise the logic model to provide for a more comprehensive measurement of implementation and outcomes, to reflect any changes or clarifications to the logic model discussed at the kick-off meeting, and to revise the evaluation design and instrumentation proposed in the grant application consistent with the logic model (*e.g.,* developing quantitative or qualitative data collections that permit both the collection of progress data and the assessment of project outcomes);

(4) The standards and targets for determining effectiveness;

(5) How evaluation results will be used to examine the effectiveness of implementation and progress toward achieving the intended outcomes; and

(6) How the methods of evaluation will produce quantitative and qualitative data that demonstrate whether the project activities achieved their intended outcomes.

(d) Demonstrate, in the narrative section of the application under "Adequacy of Project Resources," how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have historically been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to provide experiential learning to novice interpreters and to achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits;

(e) Demonstrate, in the narrative section of the application under "Quality of the Management Plan," how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks.

(2) Key project personnel and any consultants and subcontractors allocated to the project and how these allocations are appropriate and adequate to achieve the project's intended outcomes, including an assurance that such personnel will have adequate availability to ensure timely communications with stakeholders and RSA;

(3) The proposed management plan will ensure that the products and services provided are of high quality; and

(4) The proposed project will benefit from a diversity of perspectives, including the advisory committee, as well as other relevant groups in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, a logic model that depicts, at a minimum, the

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[3] A logic model communicates how the project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project.

goals, activities, outputs, and intended outcomes of the proposed project;

(2) Include, in Appendix A, a Memorandum of Understanding or a Letter of Intent between the Center and the proposed training and TA providers;

(3) Include, in Appendix A, a conceptual framework for the project;

(4) Include, in Appendix A, person-loading charts and timelines as applicable, to illustrate the management plan described in the narrative;

(5) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award;

(ii) An annual planning meeting in Washington, DC, with the RSA project officer and other relevant RSA staff during each subsequent year of the project period; and

(iii) A one-day intensive review meeting in Washington, DC, during the third quarter of the third year of the project period.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final priority: We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that: the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

These proposed priorities contain information collection requirements that are approved by OMB under the National Interpreter Education program 1820–0018; this proposed regulation does not affect the currently approved data collection.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that would maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this proposed priority only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Through this priority, experiential learning and TA will be provided to novice interpreters in order for them to achieve national certification. These activities will help interpreters to more effectively meet the communication needs of individuals who are deaf or hard of hearing and individuals who are Deaf-Blind. The training ultimately will improve the quality of VR services and the competitive integrated employment outcomes achieved by individuals with disabilities. This priority would promote the efficient and effective use of Federal funds.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site, you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 1, 2016.

Michael K. Yudin,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2016–07933 Filed 4–6–16; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[FRL–9944–66–Region 9]

Tentative Determination To Approve Site Specific Flexibility for Closure and Monitoring of the Picacho Landfill

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency, Region IX, is making a tentative determination to approve two Site Specific Flexibility Requests (SSFRs) from Imperial County (County or Imperial County) to close and monitor the Picacho Solid Waste Landfill (Picacho Landfill or Landfill). The Picacho Landfill is a commercial municipal solid waste landfill (MSWLF) operated by Imperial County from 1977 to the present on the Quechan Indian Tribe of the Fort Yuma Indian Reservation in California.

Imperial County is seeking approval from EPA to use an alternative final cover and to modify the prescribed list of detection-monitoring parameters for ongoing monitoring. The Quechan Indian Tribe (Tribe) reviewed the proposed SSFRs and determined that they met tribal requirements. EPA is now seeking public comment on EPA's tentative determination to approve the SSFRs.

DATES: Comments must be received on or before May 9, 2016. If sufficient public interest is expressed by April 22, 2016, EPA will hold a public hearing at the Quechan Community Center, located at 604 Picacho Rd., in Winterhaven, CA on May 9, 2016 from 6:00 p.m. to 8:00 p.m. If by April 22, 2016 EPA does not receive information indicating sufficient public interest for a public hearing, EPA may cancel the public hearing with no further notice. If you are interested in attending the public hearing, contact Steve Wall at (415) 972–3381 to verify that a hearing will be held.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–RCRA–2015–0445, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: wall.steve@epa.gov.*
- *Fax:* (415) 947–3564.
- *Mail:* Steve Wall, Environmental Protection Agency Region IX, Mail code: LND 2–3, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any email, Web site submittal, disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. See below for instructions regarding submitting CBI.

The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.

If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Tips for Submitting Comments to EPA

1. Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by Docket ID No. EPA–R09–RCRA–2015–0445 and other identifying information (subject heading, **Federal Register** date and page number).
- Explain why you agree or disagree, suggest alternatives, and provide suggestions for substitute language for your requested changes.

- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be verified.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Make sure to submit your comments by the comment period deadline identified.

2. Submitting Confidential Business Information (CBI)

- Do not submit CBI to EPA through *http://www.regulations.gov* or email.
- Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.
- In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket.

3. Additional Background Information

All documents in the administrative record docket for this determination are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in *http://www.regulations.gov* and in hard copy at the EPA Library, located at the Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California. The EPA Library is open from 9:00 a.m. to 4:00 p.m., Monday through Thursday, excluding legal holidays, and is located in a secured building. To review docket materials at the EPA Library, it is recommended that the public make an appointment by calling (415) 947–4406 during normal business hours. Copying arrangements will be made through the EPA Library and billed directly to the recipient. Copying costs may be waived depending on the total number of pages copied.

FOR FURTHER INFORMATION CONTACT: Steve Wall, Land Division, LND 2–3 Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105–3901; telephone number: (415) 972–3381; fax number: (415) 947–3564; e-mail address: *wall.steve@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Legal Authority for This Proposal

Under sections 1008, 2002, 4004, and 4010 of the Resource Conservation and Recovery Act of 1976 (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6901 *et seq.,* Congress required EPA to establish revised minimum federal criteria for MSWLFs, including landfill location restrictions, operating standards, design standards, and requirements for ground water monitoring, corrective action, closure and post-closure care, and financial assurance. Under RCRA section 4005, states are to develop permit programs for facilities that may receive household hazardous waste or waste from conditionally exempt small quantity generators of hazardous waste, and EPA is to determine whether the state's program is adequate to ensure that facilities will comply with the revised federal criteria.

The MSWLF criteria are in the Code of Federal Regulations at 40 CFR part 258. These regulations are prescriptive, self-implementing and apply directly to owners and operators of MSWLFs. Many of these criteria include a flexible performance standard as an alternative to the prescriptive, self-implementing regulation. The flexible standard is not self-implementing, and requires approval by the Director of an EPA-approved state MSWLF permitting program. However, EPA's approval of a state program generally does not extend to Indian Country because states generally do not have authority over Indian Country. For this reason, owners and operators of MSWLF units located in Indian Country cannot take advantage of the flexibilities available to those facilities that are within the jurisdiction of an EPA-approved state program. However, the EPA has the authority under sections 2002, 4004, and 4010 of RCRA to promulgate site-specific rules to enable such owners and operators to use the flexible standards. See *Yankton Sioux Tribe* v. *EPA,* 950 F. Supp. 1471 (D.S.D. 1996); *Backcountry Against Dumps* v. *EPA,* 100 F.3d 147 (D.C. Cir. 1996). EPA refers to such rules as "Site Specific Flexibility Determinations" and has developed draft guidance for owners and operators on preparing a request for such a site-specific rule, entitled "Site-Specific Flexibility Requests for Municipal Solid Waste Landfills in Indian Country Draft Guidance," EPA530–R–97–016, August 1997) (Draft Guidance).

II. Background

The Picacho Landfill is located on Quechan tribal lands on the Fort Yuma Indian Reservation approximately four miles north-northeast of the community of Winterhaven, in Imperial County, California. The Picacho Landfill is a commercial MSWLF operated by Imperial County from 1977 to the present. The landfill site is approximately 12.5 acres.

In January 2006, the Tribe requested that EPA provide comments on the County's closure plan. Between 2006 and 2011, EPA worked with the Tribe, the Bureau of Indian Affairs (BIA) and the County to develop and reach agreement on the closure plan and SSFRs. During this time, EPA also reviewed the SSFRs to determine whether they met technical and regulatory requirements. On October 27, 2010, Imperial County submitted its Picacho Final Closure/Post-Closure Maintenance Plan. EPA provided a final round of comments on February 10, 2011, which Imperial County incorporated as an addendum. On April 30, 2012, the Tribe approved the Picacho Landfill Final Closure/Postclosure Maintenance Plan as amended, and, pursuant to EPA's Draft Guidance, the Tribe forwarded to EPA two SSFRs that had been submitted by Imperial County to close and monitor the Picacho Landfill. The requests seek EPA approval to use an alternative final cover meeting the performance requirements of 40 CFR 258.60(a), and to modify the prescribed list of detection-monitoring parameters provided in 40 CFR 258.54(a)(1) and (2) for ongoing monitoring.

III. Basis for Proposal

EPA is basing its tentative determination to approve the site-specific flexibility request on the Tribe's approval, dated April 30, 2012, EPA's independent review of the Picacho Landfill Final Closure/Postclosure Maintenance Plan as amended, and the associated SSFRs.

A. Alternative Final Cover SSFR: Alternative Final Cover System

The regulations require the installation of a final cover system specified in 40 CFR 258.60(a), which consists of an infiltration layer with a minimum of 18 inches of compacted clay with a permeability of 1×10^{-5} cm/sec, covered by an erosion layer with a minimum six inches of topsoil. Imperial County seeks approval for an alternative final cover designed to satisfy the performance criteria specified in 40 CFR 258.60(b); Imperial County proposes to replace this with an alternative cover which would consist of two and a half feet of native soil to control infiltration covered by six inches of a soil gravel mixture to control erosion.

EPA is basing its tentative determination on a number of factors, including: (1) Research showing that prescriptive, self-implementing requirements for final covers, comprised of low permeability compacted clay, do not perform well in the arid west. The clay dries out and cracks, which allows increased infiltration along the cracks; (2) Research showing that in arid environments thick soil covers comprised of native soil can perform as well or better than the prescriptive cover; and (3) Imperial County's analysis demonstrates, based on site-specific climatic conditions and soil properties, that the proposed alternative soil final cover will achieve equivalent reduction in infiltration as the prescriptive cover design and that the proposed erosion layer provides equivalent protection from wind and water erosion. This analysis is provided in Appendix D and Appendix D–1 of the Picacho Landfill Final Closure/Postclosure Maintenance Plan dated October 27, 2010 and amended on February 20, 2011.

B. Groundwater Monitoring SSFR: Alternative Detection Monitoring Parameters

The regulations require post-closure monitoring of 15 heavy metals, listed in 40 CFR part 258, Appendix I. Imperial County, proposes to replace these, with the exception of arsenic, with the alternative inorganic indicator parameters chloride, nitrate as nitrogen, sulfate, and total dissolved solids.

EPA's tentative determination is based on the fact that the County has performed over 15 years of semi-annual groundwater monitoring at the site, and during that time arsenic was the only heavy metal detected at a value that slightly exceeded the federal maximum contaminant level (MCL), a standard used for drinking water.

IV. Additional Findings

In order to comply with the National Historic Preservation Act, 54 U.S.C. 100101 *et seq.*, Imperial County Department of Public Works will coordinate with the Tribe to arrange for a qualified Native American monitor to be present during any work. If buried or previously unidentified resources are located during project activities, all work within the vicinity of the find will cease, and the provisions pursuant to 36 CFR 800.13(b) will be implemented. If, during the course of the Landfill closure activities, previously undocumented archaeological material or human remains are encountered, all work shall cease in the immediate area and a qualified archaeologist shall be retained to evaluate the significance of the find and recommend further management actions.

Though no known threatened or endangered species or their habitat exist on the site, in order to ensure compliance with the Endangered Species Act, 16 U.S.C. 1536 *et seq.*, a preconstruction survey will be conducted prior to cover installation to ensure no threatened or endangered species are present. In particular, the survey will look for the presence of desert tortoises, which may occur in Imperial County. Should desert tortoises or other threatened or endangered species be encountered in the survey, or at any time during the closure of the Picacho Landfill, the County shall contact the USFWS to develop avoidance measures to ensure that impacts to the species are minimized. Following closure and vegetation restoration activities, the project site may become suitable for threatened and endangered species. This would be a beneficial effect.

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB).

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it applies to a particular facility only.

Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA.

Because this rule will affect only a particular facility, this proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism," (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule.

This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is EPA's conservative analysis of the potential risks posed by SRPMIC's proposal and the controls and standards set forth in the application.

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

As required by section three of Executive Order 12988, "Civil Justice Reform," (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments," (65 FR 67249, November 9, 2000), calls for EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." *See* also "EPA Policy for the Administration of Environmental Programs on Indian Reservations," (November 8, 1984) and "EPA Policy on Consultation and Coordination with Indian Tribes," (May 4, 2011). EPA consulted with the Tribe throughout Imperial County's development of its closure and monitoring plans for the Picacho Landfill.

EPA specifically solicits any additional comment on this tentative determination from tribal officials of the Quechan Indian Tribe.

List of Subjects in 40 CFR Part 258

Environmental protection, Municipal landfills, Final cover, Post-closure care groundwater Monitoring, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: March 28, 2016.

Jared Blumenfeld,

Regional Administrator, Region IX.

For the reasons stated in the preamble, 40 CFR part 258, Criteria for Municipal Solid Waste Landfills, is proposed to be amended as follows:

PART 258—CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS

■ 1. The authority citation continues to read as follows:

Authority: 33 U.S.C. 1345(d) and (e); 42 U.S.C. 6902(a), 6907, 6912(a), 6944, 6945(c) and 6949a(c), 6981(a).

Subpart F—Closure and Post-Closure Care

■ 2. Section 258.62 is amended by adding paragraph (b) to read as follows:

§ 258.62 Approval of site-specific flexibility requests in Indian Country.

* * * * *

(b) *Picacho Municipal Solid Waste Landfill—Alternative list of detection monitoring parameters and alternative final cover.* This paragraph (b) applies to the Picacho Landfill, a Municipal Solid Waste landfill operated by Imperial County on the Quechan Indian Tribe of the Fort Yuma Indian Reservation in California.

(1) In accordance with 40 CFR 258.54(a), the owner and operator may modify the list of heavy metal detection monitoring parameters specified in 40 CFR 258, Appendix I, as required during Post-Closure Care by 40 CFR 258.61(a)(3), by replacing monitoring of the inorganic constituents with the exception of arsenic, with the inorganic indicator parameters chloride, nitrate as nitrogen, sulfate, and total dissolved solids.

(2) In accordance with 40 CFR 258.60(b), the owner and operator may replace the prescriptive final cover set forth in 40 CFR 258.60(a), with an alternative final cover as follows:

(i) The owner and operator may install an evapotranspiration cover system as an alternative final cover for the 12.5 acre site.

(ii) The alternative final cover system shall be constructed to achieve an equivalent reduction in infiltration as the infiltration layer specified in § 258.60(a)(1) and (2), and provide an equivalent protection from wind and water erosion as the erosion layer specified in § 258.60(a)(3).

(iii) The final cover system shall consist of a minimum three-feet-thick multi-layer cover system comprised, from bottom to top, of:

(A) A minimum 30-inch thick infiltration layer consisting of:

(*1*) Existing intermediate cover; and

(*2*) additional cover soil which, prior to placement, shall be wetted to optimal moisture as determined by ASTM D 1557 and thoroughly mixed to near uniform condition, and the material shall then be placed in lifts with an uncompacted thickness of six to eight inches, spread evenly and compacted to 90 percent of the maximum dry density as determined by ASMT D 1557, and shall:

(*i*) Exhibit a grain size distribution that excludes particles in excess of three inches in diameter;

(*ii*) have a minimum fines content (percent by weight passing U.S. No. 200 Sieve) of seven percent for an individual test and eight percent for the average of ten consecutive tests;

(*iii*) have a grain size distribution with a minimum of five percent finer than five microns for an individual test and six percent for the average of ten consecutive tests; and

(*iv*) exhibit a maximum saturated hydraulic conductivity on the order of 1.0E–03 cm/sec.; and

(*3*) a minimum six-inch surface erosion layer comprised of a rock/soil admixture. The surface erosion layer admixture and gradations for 3% slopes and 3:1 slopes are detailed below:

(*i*) 3% slopes: For the 3% slopes the surface admixture shall be composed of pea gravel (3⁄8-inch to 1⁄2-inch diameter) mixed with cover soil at the ratio of 25% rock to soil by volume with a minimum six-inch erosion layer.

(*ii*) For the 3:1 side slopes the surface admixture shall be composed of either: gravel/rock (3⁄4-inch to one-inch diameter) mixed with additional cover soil as described in paragraph (b)(2)(iii)(A)(*2*) of this section at the ratio of 50% rock to soil by volume and result in a minimum six-inch erosion layer, or gravel/rock (3⁄4-inch to two-inch diameter) mixed with additional cover soil as described in paragraph (b)(2)(iii)(A)(*2*) of this section at the ratio of 50% rock to soil by volume and result in a minimum 12-inch erosion layer.

(*iii*) The owner and operator shall place documentation demonstrating compliance with the provisions of this Section in the operating record.

(*iv*) All other applicable provisions of 40 CFR part 258 remain in effect.

[FR Doc. 2016–07996 Filed 4–6–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1994–0002; EPA–HQ–OLEM–2016–0151, 0152, 0153, 0154, 0155, 0156, 0157 and 0158; FRL–9944–35–OLEM]

National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA” or “the Act”), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”) include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The National Priorities List (“NPL”) constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (“EPA” or “the agency”) in determining which sites warrant further investigation. These further investigations will allow the EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rulemaking proposes to add eight sites to the General Superfund section of the NPL. This proposed rule also withdraws a previous proposal to add a site to the NPL.

DATES: Comments regarding any of these proposed listings must be submitted (postmarked) on or before June 6, 2016.

ADDRESSES: Identify the appropriate docket number from the table below.

DOCKET IDENTIFICATION NUMBERS BY SITE

Site name	City/county, state	Docket ID No.
Argonaut Mine	Jackson, CA	EPA–HQ–OLEM–2016–0151
Bonita Peak Mining District	San Juan County, CO	EPA–HQ–OLEM–2016–0152
Riverside Ground Water Contamination	Indianapolis, IN	EPA–HQ–OLEM–2016–0153

DOCKET IDENTIFICATION NUMBERS BY SITE—Continued

Site name	City/county, state	Docket ID No.
Valley Pike VOCs	Riverside, OH	EPA–HQ–OLEM–2016–0154
Wappinger Creek	Dutchess County, NY	EPA–HQ–OLEM–2016–0155
Dorado Ground Water Contamination	Dorado, PR	EPA–HQ–OLEM–2016–0156
Eldorado Chemical Co., Inc.	Live Oak, TX	EPA–HQ–OLEM–2016–0157
North 25th Street Glass and Zinc	Clarksburg, WV	EPA–HQ–OLEM–2016–0158

Submit your comments, identified by the appropriate docket number, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* For additional docket addresses and further details on their contents, see section II, "Public Review/Public Comment," of the Supplementary Information portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, phone: (703) 603–8852, email: *jeng.terry@epa.gov,* Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mailcode 5204P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What is the NCP?

To implement CERCLA, the EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. The EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action." "Removal" actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

C. What is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants or contaminants throughout the United

States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended. Section 105(a)(8)(B) defines the NPL as a list of "releases" and the highest priority "facilities" and requires that the NPL be revised at least annually. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by the EPA (the "General Superfund section"), and one of sites that are owned or operated by other federal agencies (the "Federal Facilities section"). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody or control, although the EPA is responsible for preparing a Hazard Ranking System ("HRS") score and determining whether the facility is placed on the NPL.

D. How are sites listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP):

(1) A site may be included on the NPL if it scores sufficiently high on the HRS, which the EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), the EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure and air. As a matter of agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL.

(2) Pursuant to 42 U.S.C. 9605(a)(8)(B), each state may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each state as the greatest danger to public health, welfare or the environment among known facilities in the state. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2).

(3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- The EPA determines that the release poses a significant threat to public health.
- The EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

The EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

E. What happens to sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). ("Remedial actions" are those "consistent with permanent remedy, taken instead of or in addition to removal actions. * * *" 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL "does not imply that monies will be expended." The EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. Does the NPL define the boundaries of sites?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA "facility" is broadly defined to include any area where a hazardous substance has "come to be located" (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the "boundaries" of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (*e.g.,* the "Jones Co. Plant site") in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (*e.g.,* it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (*e.g.,* where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the "site"). The "site" is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination, and is not meant to constitute any determination of liability at a site. For example, the name "Jones Co. Plant site," does not imply that the Jones Company is responsible for the contamination located on the plant site.

The EPA regulations provide that the remedial investigation ("RI") "is a process undertaken . . . to determine the nature and extent of the problem presented by the release" as more information is developed on site contamination, and which is generally performed in an interactive fashion with the feasibility Study ("FS") (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination "has come to be located" before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted previously, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How are sites removed from the NPL?

The EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that the EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

H. May the EPA delete portions of sites from the NPL as they are cleaned up?

In November 1995, the EPA initiated a policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and made available for productive use.

I. What is the Construction Completion List (CCL)?

The EPA also has developed an NPL Construction Completion List ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) the EPA has determined that the response action should be limited to measures that do not involve construction (*e.g.,* institutional controls); or (3) the site qualifies for deletion from the NPL. For the most up-to-date information on the CCL, see the EPA's Internet site at *https://www.epa.gov/superfund/about-superfund-cleanup-process#tab-6.*

J. What is the Sitewide Ready for Anticipated Use measure?

The Sitewide Ready for Anticipated Use measure (formerly called Sitewide Ready-for-Reuse) represents important Superfund accomplishments and the measure reflects the high priority the EPA places on considering anticipated future land use as part of the remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, OSWER 9365.0–36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. The EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment for current and future land uses, in a manner that allows contaminated properties to be restored to environmental and economic vitality. For further information, please go to *https://www.epa.gov/superfund/about-superfund-cleanup-process#tab-9.*

K. What is state/tribal correspondence concerning NPL listing?

In order to maintain close coordination with states and tribes in the NPL listing decision process, the EPA's policy is to determine the position of the states and tribes regarding sites that the EPA is considering for listing. This consultation process is outlined in two memoranda that can be found at the following Web site: *https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing.*

The EPA is improving the transparency of the process by which state and tribal input is solicited. The EPA is using the Web and where appropriate more structured state and tribal correspondence that (1) explains the concerns at the site and the EPA's rationale for proceeding; (2) requests an explanation of how the state intends to address the site if placement on the NPL is not favored; and (3) emphasizes the transparent nature of the process by informing states that information on their responses will be publicly available.

A model letter and correspondence from this point forward between the EPA and states and tribes where applicable, is available on the EPA's Web site at *https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing.*

II. Public Review/Public Comment

A. May I review the documents relevant to this proposed rule?

Yes, documents that form the basis for the EPA's evaluation and scoring of the sites in this proposed rule are contained in public dockets located both at the EPA Headquarters in Washington, DC, and in the regional offices. These documents are also available by electronic access at *http://www.regulations.gov* (see instructions in the **ADDRESSES** section above).

B. How do I access the documents?

You may view the documents, by appointment only, in the Headquarters or the regional dockets after the publication of this proposed rule. The hours of operation for the Headquarters docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding federal holidays. Please contact the regional dockets for hours.

The following is the contact information for the EPA Headquarters Docket: Docket Coordinator, Headquarters, U.S. Environmental Protection Agency, CERCLA Docket Office, 1301 Constitution Avenue NW., William Jefferson Clinton Building West, Room 3334, Washington, DC 20004; 202/566–0276. (Please note this is a visiting address only. Mail comments to the EPA Headquarters as detailed at the beginning of this preamble.)

The contact information for the regional dockets is as follows:

- Holly Inglis, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109–3912; 617/918–1413.
- Ildefonso Acosta, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4344.
- Lorie Baker (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3HS12, Philadelphia, PA 19103; 215/814–3355.
- Jennifer Wendel, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61

Forsyth Street, SW., Mailcode 9T25, Atlanta, GA 30303; 404/562–8799.

- Todd Quesada, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Division Librarian/SFD Records Manager SRC–7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886–4465.
- Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Suite 1200, Mailcode 6SFTS, Dallas, TX 75202–2733; 214/665–7436.
- Preston Law, Region 7 (IA, KS, MO, NE), U.S. EPA, 11201 Renner Blvd., Mailcode SUPRERNB, Lenexa, KS 66219; 913/551–7097.
- Sabrina Forrest, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mailcode 8EPR–B, Denver, CO 80202–1129; 303/312–6484.
- Sharon Murray, Region 9 (AZ, CA, HI, NV, AS, GU, MP), U.S. EPA, 75 Hawthorne Street, Mailcode SFD 6–1, San Francisco, CA 94105; 415/947–4250.
- Ken Marcy, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 6th Avenue, Mailcode ECL–112, Seattle, WA 98101; 206/463–1349.

You may also request copies from the EPA Headquarters or the regional dockets. An informal request, rather than a formal written request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents. Please note that due to the difficulty of reproducing oversized maps, oversized maps may be viewed only in-person; since the EPA dockets are not equipped to both copy and mail out such maps or scan them and send them out electronically.

You may use the docket at *http://www.regulations.gov* to access documents in the Headquarters docket (see instructions included in the **ADDRESSES** section). Please note that there are differences between the Headquarters docket and the regional dockets and those differences are outlined in this preamble, Sections II.C and D.

C. What documents are available for public review at the EPA Headquarters docket?

The Headquarters docket for this proposed rule contains the following for the sites proposed in this rule: HRS score sheets; documentation records describing the information used to compute the score; information for any sites affected by particular statutory requirements or the EPA listing policies; and a list of documents referenced in the documentation record.

D. What documents are available for public review at the EPA regional dockets?

The regional dockets for this proposed rule contain all of the information in the Headquarters docket plus the actual reference documents containing the data principally relied upon and cited by the EPA in calculating or evaluating the HRS score for the sites. These reference documents are available only in the regional dockets.

E. How do I submit my comments?

Comments must be submitted to the EPA Headquarters as detailed at the beginning of this preamble in the **ADDRESSES** section. Please note that the mailing addresses differ according to method of delivery. There are two different addresses that depend on whether comments are sent by express mail or by postal mail.

F. What happens to my comments?

The EPA considers all comments received during the comment period. Significant comments are typically addressed in a support document that the EPA will publish concurrently with the **Federal Register** document if, and when, the site is listed on the NPL.

G. What should I consider when preparing my comments?

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that the EPA should consider and how it affects individual HRS factor values or other listing criteria (*Northside Sanitary Landfill* v. *Thomas,* 849 F.2d 1516 (D.C. Cir. 1988)). The EPA will not address voluminous comments that are not referenced to the HRS or other listing criteria. The EPA will not address comments unless they indicate which component of the HRS documentation record or what particular point in the EPA's stated eligibility criteria is at issue.

H. May I submit comments after the public comment period is over?

Generally, the EPA will not respond to late comments. The EPA can guarantee only that it will consider those comments postmarked by the close of the formal comment period. The EPA has a policy of generally not delaying a final listing decision solely to accommodate consideration of late comments.

I. May I view public comments submitted by others?

During the comment period, comments are placed in the Headquarters docket and are available to the public on an "as received" basis. A complete set of comments will be available for viewing in the regional dockets approximately one week after the formal comment period closes.

All public comments, whether submitted electronically or in paper form, will be made available for public viewing in the electronic public docket at *http://www.regulations.gov* as the EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI) or other information whose disclosure is restricted by statute. Once in the public dockets system, select "search," then key in the appropriate docket ID number.

J. May I submit comments regarding sites not currently proposed to the NPL?

In certain instances, interested parties have written to the EPA concerning sites that were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the docket.

III. Contents of This Proposed Rule

A. Proposed Additions to the NPL

In this proposed rule, the EPA is proposing to add eight sites to the NPL, all to the General Superfund section. All of the sites in this proposed rulemaking are being proposed based on HRS scores of 28.50 or above.

The sites are presented in the table below.

GENERAL SUPERFUND SECTION

State	Site name	City/County
CA	Argonaut Mine	Jackson.

GENERAL SUPERFUND SECTION—Continued

State	Site name	City/County
CO	Bonita Peak Mining District	San Juan County.
IN	Riverside Ground Water Contamination	Indianapolis.
OH	Valley Pike VOCs	Riverside.
NY	Wappinger Creek	Dutchess County.
PR	Dorado Ground Water Contamination	Dorado.
TX	Eldorado Chemical Co., Inc.	Live Oak.
WV	North 25th Street Glass and Zinc	Clarksburg.

B. Withdrawal of Site From Proposal to the NPL

The EPA is withdrawing its previous proposal to add the Rickenbacker Air National Guard Base site in Lockbourne, Ohio to the NPL because all appropriate cleanup actions have been taken at the site in accordance with its reuse as an airport. The U.S. Air Force will continue to provide funding to the Ohio Environmental Protection Agency under its Defense-State Memorandum of Agreement (DSMOA) to provide cleanup oversight and stewardship of institutional controls in accordance with state law. The proposed rule can be found at 59 FR 2568 (January 18, 1994). Refer to the Docket ID Number EPA–HQ–SFUND–1994–0002 for supporting documentation regarding this action.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This rule does not contain any information collection requirements that require approval of the OMB.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments or the private sector. Listing a site on the NPL does not itself impose any costs. Listing does not mean that the EPA necessarily will undertake remedial action. Nor does listing require any action by a private party, state, local or tribal governments or determine liability for response costs. Costs that arise out of site responses result from future site-specific decisions regarding what actions to take, not directly from the act of placing a site on the NPL.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. Listing a site on the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because this action itself is procedural in nature (adds sites to a list) and does not, in and of itself, provide protection from environmental health and safety risks. Separate future regulatory actions are required for mitigation of environmental health and safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the level of protection provided to human health or the environment. As discussed in Section I.C. of the preamble to this action, the NPL is a list of national priorities. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance as it does not assign liability to any party. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Dated: March 28, 2016.

Mathy Stanislaus,

Assistant Administrator, Office of Land and Emergency Management.

[FR Doc. 2016–07671 Filed 4–6–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1355

RIN 0970–AC47

Adoption and Foster Care Analysis and Reporting System

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: On February 9, 2015, the Administration for Children and Families (ACF) published a Notice of Proposed Rulemaking (NPRM) to amend the Adoption and Foster Care Analysis and Reporting System (AFCARS) regulations to modify the requirements for title IV–E agencies to collect and report data to ACF on children in out-of-home care and who were adopted or in a legal guardianship with a title IV–E subsidized adoption or guardianship agreement. In this supplemental notice of proposed rulemaking (SNPRM), ACF proposes to require that state title IV–E agencies collect and report additional data elements related to the Indian Child Welfare Act of 1978 (ICWA) in the AFCARS. ACF will consider the public comments on this SNPRM as well as comments already received on the February 9, 2015 NPRM and issue one final AFCARS rule.

DATES: Submit written or electronic comments on this Supplemental Notice of Proposed Rulemaking on or before May 9, 2016.

ADDRESSES: We encourage the public to submit comments electronically to ensure they are received in a timely manner. Please be sure to include identifying information on any correspondence. To download an electronic version of the proposed rule, please go to *http://www.regulations.gov/*. You may submit comments, identified by docket number, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Mail: Written comments may be submitted to Kathleen McHugh, United States Department of Health and Human Services, Administration for Children and Families, Director, Policy Division, 330 C Street SW., Washington, DC 20024.

- Please be aware that mail sent in response to this SNPRM may take an additional 3 to 4 days to process due to security screening of mail.
- *Hand Delivery/Courier:* If you choose to use an express, overnight, or other special delivery method, please ensure that the carrier will deliver to the above address Monday through Friday during the hours of 9 a.m. to 5 p.m., excluding holidays.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Comments that concern information collection requirements must be sent to the Office of Management and Budget (OMB) at the address listed in the Paperwork Reduction Act (PRA) section of this preamble. A copy of these comments also may be sent to the Department representative listed above.

FOR FURTHER INFORMATION CONTACT: Kathleen McHugh, United States Department of Health and Human Services, Administration for Children and Families, Director, Policy Division. To contact Kathleen McHugh, please use the following email address: *cbcomments@acf.hhs.gov.* Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION:

Contents

I. Background
II. Statutory Authority
III. Public Participation
IV. Consultation and Regulation Development
V. Section-by-Section Discussion of the SNPRM
VI. Regulatory Impact Analysis
VII. Tribal Consultation Statement

I. Background

Adoption and Foster Care Automated Reporting System (AFCARS)

Section 479 of the Social Security Act (the Act) requires that ACF regulate a national data collection system that provides comprehensive demographic and case-specific information on all children who are in foster care or adopted with title IV–E agency involvement (42 U.S.C. 679). Historically, the broad underlying legislative directive has always been the establishment and administration of a system for "the collection of data with respect to adoption and foster care in the United States." Such data collection system is the Adoption and Foster Care Automated Reporting System (AFCARS).

The AFCARS statute with regard to data collection systems requires the following: (1) The data collection system developed and implemented shall avoid unnecessary diversion of resources from adoption and foster care agencies; (2) the data collection system shall assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies; (3) the data collection system shall provide: Comprehensive national information with respect to the demographic characteristics of adoptive and foster children and their biological and adoptive foster parents; the status of the foster care population, the number and characteristics of children place in and removed from foster care; children adopted or for whom adoptions have been terminated; children placed in foster care outside the state which has placement and care responsibility; the extent and nature of assistance provided by federal, state, and local adoption and foster care programs; the characteristics of the children with respect to whom such assistance is provided; and the annual number of children in foster care who are identified as sex trafficking victims including those who were victims before entering foster care; and those who were victims while in foster care; and (4) the data collection system will utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.

ACF issued the AFCARS NPRM (80 FR 7132, hereafter referred to as the February 2015 AFCARS NPRM) to amend the AFCARS regulations at 45 CFR 1355.40 and the appendices to part 1355. In it, ACF proposed to modify the requirements for title IV–E agencies to collect and report data to ACF on children in out-of-home care and who were adopted or in a legal guardianship with a title IV–E subsidized adoption or guardianship agreement. At the time the February 2015 AFCARS NPRM was issued, ACF concluded that it did not have enforcement authority regarding ICWA and, therefore, was not able to make the requested changes or additions to the AFCARS data elements regarding ICWA.

However, in the time since publication of the February 2015 AFCARS NPRM, ACF legal counsel re-examined the issue and determined it is within ACF's existing authority to collect state-level ICWA-related data on American Indian and Alaska Native (AI/AN) children in child welfare systems pursuant to section 479 of the Social Security Act. Such determination was informed by comments received on the February 2015 AFCARS NPRM as well as an extensive re-evaluation of the scope of ACF's statutory and regulatory authority.

Indian Child Welfare Act

In 1970, President Nixon declared that termination, the then-current federal policy to terminate Indian tribal governments, sell tribal land, and move AI/AN peoples from ancestral lands to assimilate them into 'American' society, was wrong and should be replaced by Indian *self-determination* which recognized the inherent retained right of Indian nations to govern themselves. From that time, the federal government began implementing new policies of Indian self-determination under which tribal sovereignty and self-governance were fostered, allowing tribes to operate programs once solely administered by the federal government. It also increased federal support and benefits available to tribes to strengthen capacity and self-sufficiency.

Against this backdrop, the Indian Child Welfare Act (ICWA) was enacted in 1978 to address concerns over the consequences to Indian children, Indian families, and Indian tribes of child welfare practices that resulted in the separation of large numbers of Indian children from their families and tribes. *See* 25 U.S.C. 1901 *et seq.* ICWA has been characterized as embodying the "gold standard" for child welfare policy and practice in the United States and establishes minimum federal jurisdictional, procedural, and substantive standards intended to achieve the purposes of protecting the rights of Indian children to live with their families, to stabilize and foster continued tribal existence, and to facilitate permanency for children, families, and tribes.

However, ACF has never collected ICWA-related data. Using the data elements proposed in the SNPRM, ACF proposes to collect ICWA-related data on AI/AN children in child welfare systems for several uses in the public interest including: To assess the current state of foster care and adoption of Indian children under the Act, to develop future national policies concerning ACF programs that affect Indian children under the Act, and to meet federal trust obligations under established federal policies.

ICWA was enacted by Congress in response to alarming numbers of AI/AN children being removed from their families by public and private child welfare agencies, most often being placed in non-Indian homes far from their tribal communities. Congress found that, "there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children." (25 U.S.C. 1901 (3)) Accordingly, through ICWA, Congress declared the policy of the United States is to protect the best interests of Indian children, to promote the stability and security of Indian tribes and families by establishing minimum Federal standards for the removal of Indian children from their families, and to place such children in foster or adoptive homes that reflect the unique values of Indian cultures. Finally, Congress calls for providing assistance to Indian tribes in the operation of child and family service programs. (25 U.S.C. 1902) ICWA was enacted to protect American Indian families and to give tribes a role in making child welfare decisions for AI/AN children. AI/AN children are subject to ICWA when they are unmarried persons under the age of 18 and are either (a) a member of an Indian tribe or (b) are eligible for membership in an Indian tribe and are the biological child of a member of an Indian tribe. ICWA expressly requires, among other things, that: (1) A tribe is notified when the state places an "Indian child" in foster care or seeks to terminate parental rights on behalf of such a child, (2) a tribe is given an opportunity to intervene in any state proceeding for foster care placement and termination of parental rights to a child subject to ICWA, and (3) that a preference be given to placing the Indian child with extended family or tribal families.

Use of AFCARS Data

AFCARS is designed to collect uniform, reliable information from title IV–B and title IV–E agencies on children who are under the agencies' responsibility for placement, care, or supervision. AFCARS was established to provide data that would assist in policy development and program management. Although ICWA was passed more than 30 years ago, it is unclear how well state agencies and courts have implemented ICWA's requirements into practice. Even in states with large AI/AN populations, there may be confusion regarding how and when to apply the law, including providing notice to tribes and making active efforts to prevent removal and reunite children with their Indian families as required under ICWA. This is further complicated by the fact that there is no comprehensive national data on the status of AI/AN children for whom ICWA applies at any stage in the adoption or foster care system. AFCARS data can bridge this gap.

Additional AFCARS data elements are proposed to enhance the type and quality of information title IV–E agencies report to ACF. ACF's proposals, embodied in this SNPRM, are motivated by the Administration's vision of healthy, resilient, and thriving Indian children and families as well as the continued vitality and integrity of Indian tribes. More specifically, the proposals reflected in this SNPRM manifest Department-wide priorities to affirmatively protect the best interests of Indian children and to promote the stability and security of Indian tribes, families, and children.

ACF proposes to collect data elements in AFCARS related to ICWA's statutory standards for removal, foster care placement, and adoption proceedings. More specifically, through this SNPRM, ACF will improve the AFCARS data collection system to provide more comprehensive demographic and case-specific information on all children, including children subject to ICWA, who are in foster care or adopted with title IV–E agency involvement. Additionally, ACF intends to use the data to:

1. Address the unique needs of AI/AN children in foster care or adoption, and their families.

In 2005, the Government Accountability Office (GAO) issued a report titled "Indian Child Welfare Act: Existing Information on Implementation Issues Could Be Used to Target Guidance and Assistance to States"

(GAO–05–290). In addition to noting that no national data on children subject to ICWA was available, GAO asserts that the extent to which states and tribes work together to implement ICWA and title IV–E/IV–B requirements affects outcomes for Indian children in state foster care systems. The report also discusses how the Adoption and Safe Families Act (Pub. L. 105–89) influences placement decisions and outcomes for Indian children, noting the following: "Decisions regarding the placement of children subject to ICWA as they enter and leave foster care can be influenced by how long it takes to determine whether a child is subject to the law, the availability of American Indian foster and adoptive homes, and the level of cooperation between states and tribes. According to several child welfare officials, these factors, which are unique to American Indian children, can play an important role in placement decisions, including the characteristics of the foster home in which the child will be placed, the number of placements a child will have, and the duration of the stay." (GAO–05–290, p.3). The proposed ICWA data will help address the unique needs of Indian children in foster care or adoption and their families by clarifying how the ICWA requirements and how title IV–E/IV–B requirements affect placement of Indian children.

2. Assess the current state of adoption and foster care programs and relevant trends that affect AI/AN families.

American Indian and Alaska Native children are over-represented in child welfare systems at higher rates than any other racial or ethnic group. In 2013, American Indian children were over-represented among children in foster care by a factor of 2.4, compared to their proportion of the population. From 2000 to 2013, the degree of over-representation of AI/AN children substantially increased from 1.5 to 2.4, and the degree of disproportionality varies widely by state (National Council of Juvenile and Family Court Judges, 2015). At this time, there is very limited data available to help understand the reasons for the varying degrees of disproportionality. Proposed ICWA-related AFCARS data elements will shed light on the relationship between implementing ICWA requirements and outcomes for AI/AN children. In addition, the proposed data elements will provide additional information to help identify the real or perceived barriers encountered by states in identifying AI/AN children in their child welfare systems. Finally, proposed ICWA-related AFCARS data elements will provide currently unavailable information that will help to assess the extent to which the fidelity of ICWA implementation influences permanent placements for Indian children and the length of stay in out-of-home care. The proposed ICWA data will also help to inform efforts to compare program practices, processes, or outcomes between states and over the course of time, which would allow the Children's Bureau to identify trends and highlight and build upon strengths and best practices.

3. Improve training and technical assistance to help states comply with title IV–E, and title IV–B of the Social Security Act.

Through the Children's Bureau, ACF provides state title IV–E agencies with technical assistance to help agencies implement federal requirements and improve their child welfare programs (as authorized by section 435 and 476 of the Social Security Act). Between federal fiscal year (FFY) 2010 and FFY 2014, ACF received 31 requests for tailored consultation from state agencies and title IV–B tribes (separately or in collaboration) for assistance with examining or supporting ICWA implementation. In response to these requests, ACF-supported technical assistance providers delivered more than 3,700 hours of direct, tailored consultation to state agencies and tribes related to ICWA.

In FFY 2015, 24 state title IV–E agencies participated in discussions with ACF and its technical assistance providers about their potential areas of need for capacity building and improvement. One third of these agencies identified themselves as having ICWA implementation related needs for technical assistance. Data related to ICWA will assist ACF to improve training content, target subject areas, and identify geographies in which training will be helpful.

4. Develop future national policies concerning its programs.

Additional proposed ICWA-related data will allow ACF and the Children's Bureau to more effectively plan, coordinate, and lead AI/AN programming across ACF operations, with other Departments such as the Bureau of Indian Affairs (BIA) in the Department of the Interior, the Department of Justice (DOJ), and throughout the federal government. By collecting additional data, the federal government will also have a more complete understanding of how state agencies interact with Indian children and families as well as how many children subject to ICWA come to the attention of state child welfare agencies nationwide. This additional data will help align performance measures, build an evidence base that informs policy and practice, and better ensure that federal funds are being directed in a way that delivers significantly better results for AI/AN families. This critical role aligns with the research, evaluation, and technical assistance responsibilities of the Children's Bureau.

5. Inform and expand partnerships across federal agencies that invest in Indian families and that promote resilient, thriving tribal communities through several initiatives.

AFCARS data on the wellbeing of AI/AN children will help multiple federal agencies identify needs and gaps, expand best practices, and shape new policy and technical assistance. Several of the current interagency initiatives that will benefit include:

- *Generation Indigenous.* On December 3, 2014, President Obama launched Generation Indigenous (Gen-I), "an initiative that takes a comprehensive, culturally appropriate approach to help improve the lives of, and opportunities for, Native youth." On July 9, 2015, the Executive Office of the President, Office of Management and Budget, issued Executive Memo M–15–17 identifying Native youth budget priorities including "services that keep families together. These could be family assistance services, home improvement programs, alternatives to incarceration, and employment support services. Agencies should focus on programs that support the capacity building and programmatic support necessary to implement ICWA."
- *The Department of Justice Defending Childhood Initiative and the Task Force on American Indian and Alaska Native Children Exposed to Violence.* The Task Force report recommended that ACF, BIA, DOJ, and tribes develop a modernized unified data-collection system designed to collect ICWA-related AFCARS data on all AI/AN children who are placed into foster care by their agency.
- *HHS Secretary's Tribal Advisory Committee (STAC).* In 2014, the STAC specifically identified improved federal data collection on ICWA as a priority need. In early 2015, the STAC identified AFCARS as a vehicle for ICWA data elements. The STAC expressed their view that ACF has a critical role in collecting important data, promoting effective tribal/state collaborations, increasing state capacity to comply with ICWA, and reversing the inequities and disproportionate representation and poor outcomes for children that can occur when ICWA is not followed. In order to assist the Administration in implementing ICWA and protecting AI/

AN children and families, the STAC requested enhanced "collection of data elements related to key ICWA requirements in individual ICWA cases and greater oversight of the title IV–B requirement for states to consult with tribes on measures to comply with ICWA (STAC follow-up letter to the Secretary, June, 30, 2015, pp 9–10)." *http://www.hhs.gov/about/agencies/iea/tribal-affairs/about-stac/index.html#.*

- Interagency ICWA Working Group Projects, including the Bureau of Indian Affairs initiative to update state guidance on ICWA and promulgate ICWA regulations. The BIA Bureau of Indian Affairs updated the Guidelines for State Courts and Agencies in Indian Child Custody Proceedings (80 FR 10146, issued February 25, 2015, hereafter referred to as the Guidelines) and has issued proposed regulations for State Courts and Agencies in Indian Child Custody Proceedings (proposed at 80 FR 14880, issued March 20, 2015) to help ensure Indian children are not removed from their communities, cultures, and extended families in conflict with ICWA's express mandates.

Consistent with the Administration's focus on Indian children, the Department of the Interior, DOJ, and HHS engaged in extensive interagency collaboration to promote compliance with ICWA and agreed to continue to collaborate. This work involved collaborating on ICWA-related regulations, including the BIA regulations and this SNPRM.

6. Implement Tribal sovereignty principles and Federal trust responsibilities.

Improving AFCARS to inform ACF and other federal agencies is consistent with ACF's implementation of government-to-government principles of engagement with AI/AN tribes and respect for our trust responsibilities. ACF's understanding of fundamental principles of tribal sovereignty is reflected in both the Department's and ACF's Tribal Consultation Policies which state:

> "The special government-to-government relationship between the Federal Government and Indian Tribes, established in 1787, is based on the Constitution, and has been given form and substance by numerous treaties, laws, Supreme Court decisions, and Executive Orders, and reaffirms the right of Indian Tribes to self-government and self-determination. Indian Tribes exercise inherent sovereign powers over their citizens and territory. The U.S. shall continue to work with Indian Tribes on a government-to-government basis to address issues concerning Tribal self-government, Tribal trust resources, Tribal treaties and other rights."
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> "Tribal self-government has been demonstrated to improve and perpetuate the government-to-government relationship and strengthen Tribal control over Federal funding that it receives, and its internal program management. Indian Tribes participation in the development of public health and human services policy ensures locally relevant and culturally appropriate approaches to public issues." (Section 3, Department of Health and Human Services Tribal Consultation Policy).
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> "Our Nation, under the law of the U.S. and in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government and self-determination. Indian tribes exercise inherent sovereign powers over their members and territory. The U.S. continues to work with Indian tribes on a government-to-government basis to address issues concerning tribal self-government, tribal trust resources, tribal treaties, and other rights." (Section 4, ACF Tribal Consultation Policy).

These principles are also reflected in ICWA through Congressional recognition of "the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people." (25 U.S.C. 1901)

ACF announced its intent to publish a SNPRM in a **Federal Register** document issued on April 2, 2015 (80 FR 17713). Section 479 of the Social Security Act contains some express limits on the authority of ACF to collect data including: Data collected under AFCARS must avoid an unnecessary diversion of resources from agencies responsible for adoption and foster care (section 479(c)(1) of the Act) and must assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies (section 479(c)(2) of the Act). With respect to the requirement in section 479(c)(1) of the Act, ACF tailored the proposed data elements to collect only the most essential information regarding Indian children in foster care and children who have been adopted with state title IV–E agency involvement. Most data elements will only be required for children who are determined to be Indian children as defined in ICWA. Furthermore, the statutory authority under section 479 of the Act is limited to data with respect to adoption and foster care. ACF is not proposing to require tribal title IV–E agencies to collect and report ICWA-related data elements in proposed paragraph (i) because ICWA does not apply to placements by Indian tribes. The data elements in § 1355.43(i) are subject to the same compliance and penalty requirements in §§ 1355.45 and 1355.46, respectively, proposed in the February 2015 AFCARS NPRM (80 FR 7187–7192 and 7220–7221).

II. Statutory Authority

Sections 479 and 474(f) of the Act provide HHS the authority to require that title IV–E agencies maintain a data collection system which provides comprehensive national information related to adopted and foster children and requires that the Secretary of Health and Human Services regulate a national data collection system to provide comprehensive case level information and impose penalties for failure to submit AFCARS data under certain circumstances. Section 1102 of the Act instructs the Secretary to promulgate regulations necessary for the effective administration of the functions for which she is responsible under the Act.

III. Public Participation

ACF invites the public to comment on all aspects of the ICWA-related data elements proposed in this SNPRM. In addition, ACF specifically invites comment on which, if any, of the proposed data elements the state title IV–E agencies currently collect. ACF will review and consider all comments that are germane and received during the comment period on this SNPRM as well as those previously submitted in response to the February 2015 AFCARS NPRM, and issue one final rule on AFCARS.

IV. Consultation and Regulation Development

To inform the development of the ICWA-related data elements proposed in this SNPRM, ACF reviewed public comments received in response to the February 2015 AFCARS NPRM, held tribal and state consultation and listening sessions, and consulted with federal agency experts, as outlined below.

1. Consideration of comments on the February 2015 AFCARS NPRM that addresses ICWA-related data elements.

ACF received approximately 45 comments that proposed/recommended including new data elements in AFCARS related to ICWA. Twenty-five of the commenters were tribes or tribal organizations, four were state child welfare departments, and the remaining were public interest organizations, academics/universities, and individuals. Of the 45 comments, 18 commenters submitted the same or similar form letter that recommended additional data elements providing information about the applicability of ICWA for children in out-of-home care and proposed revisions to the data elements proposed in the February 2015 AFCARS NPRM to capture ICWA-related data. The commenters recommended approximately 62 new or revised data elements that addressed the following: Identification of Indian children and their family structure; tribal notification and intervention in state court proceedings; the relationship of the foster parents and other providers to the Indian child; decisions to place an Indian child in out-of-home care (including data on active efforts and continued custody); whether a placement was licensed by an Indian tribe; whether the placement preferences in ICWA were followed and both the voluntary and involuntary termination of parental rights. ACF did not receive specific suggestions from the four state child welfare agencies on which ICWA-related data elements to include in AFCARS.

2. Tribal consultation session.

The Children's Bureau held a tribal consultation via conference call on May 1, 2015, that was co-facilitated by the Children's Bureau's (CB) Associate Commissioner and the Chairperson of the ACF Tribal Advisory Committee, who also serves as the Vice Chair of the Jamestown S'Klallam Tribal Council. The CB conducted the session to obtain input from tribal leaders on proposed AFCARS data elements related to ICWA. Comments were solicited during the call to determine essential data elements that title IV–E agencies should report to AFCARS including, but not limited to: Whether the requirements of ICWA were applied to a child; notice for child welfare proceedings; active efforts to prevent removal or to reunify the Indian child with the child's biological or adoptive parents or Indian custodian; placement preferences under ICWA; and terminations of parental rights for an Indian child. Tribal representatives did not provide specific suggestions on the call but noted during the call that they would provide formal comments on the SNPRM when it was issued.

3. Solicited input from members of the National Association of Public Child Welfare Administrators (NAPCWA).

The NAPCWA, an affiliate of the American Public Human Services Association (APHSA) hosted a conference call with state members of NAPCWA (*i.e.*, representatives of state child welfare agencies) and the Children's Bureau on April 27, 2015. The purpose of the call was to obtain input from state members on what data state title IV–E agencies currently collect regarding ICWA and what they believed were the most important information title IV–E agencies should report in AFCARS related to ICWA. Representatives from 13 states participated in the conference call and stated that some of their states currently collect information in their information system related to Indian children, such as tribal membership, tribal notification, and tribal enrollment status. They noted that some of the information with regard to ICWA, such as placement preferences and active efforts, are contained in case files, case notes, or other narratives, and not currently captured within their information systems, and noted issues with extraction of such data for AFCARS reporting. They also indicated that their information systems would need to be changed and upgraded to report ICWA-related data in AFCARS and that new processes would need to be developed to collect and extract the requested information. They noted that they would need to train workers to accurately collect the data. They indicated that additional funding is necessary for costs associated with data collection. Participating state representatives also expressed concern about adding data elements that would require information from state courts, unlike other AFCARS data elements which are available within the title IV–E agency's information system. Given that state title IV–E agencies and courts do not typically exchange data, workers may need to gather and enter state court information manually.

4. Input from federal agency experts regarding ICWA.

In December 2014, at the White House Tribal Nations conference, Attorney General Holder announced an initiative to promote compliance with ICWA. This initiative included partnering with the Departments of Health and Human Services and the Interior to ensure all tools available to the federal government are used to promote compliance with ICWA. Federal Departments have a strong interest in collecting data elements related to ICWA. To further interagency collaboration in this area, DOI, DOJ, and HHS have engaged in extensive discussions focused on ICWA, including the sharing of agencies' expertise for the development of ICWA-related regulations, including AFCARS.

As part of on-going intra- and inter-agency collaboration, ACF consulted with federal experts on what data exists, or not, and its utility in understanding the well-being of Indian children, youth, and families. ACF also consulted with federal partners on the ICWA statutory requirements in 25 U.S.C. 1901 *et seq.*, DOI's *Guidelines,* and Notice of Proposed Rulemaking to implement ICWA *Regulations for State Courts and Agencies in Indian Child Custody Proceedings* (80 FR 14880, issued March 20, 2015).

After considering all of the aforementioned input, ACF proposes the addition of paragraph (i) to § 1355.43 (as proposed in the February 2015 AFCARS NPRM). Section 479 of the Act permits broader data collection in order to establish a true national data collection system that provides comprehensive demographic and case-specific information on all children who are in foster care and adopted with title IV–E agency involvement, to assess the current state of adoption and foster care programs in general, as well as to develop future national policies concerning these programs. Collecting data on Indian children, including ICWA-related data, is within the authority of section 479 because it is in line with the statutory goal of assessing the status of children in foster care. ACF is exercising its authority to propose a limited new set of ICWA-related data because section 479(a) authorizes "the collection of data with respect to adoption and foster care in the United States" and Indian children are children living within the United States and are those intended to benefit from *both* ICWA and titles IV–B and IV–E. The supplemental proposed rule includes data relevant to AI/AN children that supports ACF in assessing the current state of the well-being of Indian children as well as state implementation of title IV–E and IV–B. ACF proposes to use the collected data to make data-informed assessments; and to develop future policies concerning tribal-state consultation, ICWA implementation, and training and technical assistance to support states in the implementation of title IV–B and title IV–E programs.

ACF will analyze all pertinent comments to this SNPRM along with prior comments received on the February 2015 AFCARS NPRM and issue one final rule on AFCARS in which the ICWA-related data elements will be included. ACF understands from consultation and the regulatory development process that some of the information sought in this SNPRM for inclusion in AFCARS might be contained in agency case files. However, a number of the proposed data elements seek information related to court findings and this represents a shift toward increased reporting on the activity of the court in AFCARS. In this SNPRM, ACF proposes that state title IV–E agencies report information believed to be contained in court orders that the state title IV–E agency would have ready access to or would typically be contained within the state title IV–E agency case files. ACF is seeking input from state title IV–E agencies on whether they would be readily able to report the information in AFCARS for the data elements that relate to court activities and if there would be difficulties in doing so. We encourage agencies to describe the nature of the issues they would face, and possible approaches to addressing these concerns in light of the importance of having this information.

V. Section-by-Section Discussion of SNPRM

Section 1355.43(i) Data Elements Related to the Indian Child Welfare Act (ICWA)

In paragraph (i), ACF proposes to require that state title IV–E agencies collect and report certain ICWA-related information on children in the AFCARS out-of-home care reporting population. ACF does not require state title IV–E agencies to report the data elements proposed in paragraph (i) for an Indian child who remains under the tribe's responsibility, placement, and care but for which the state provides IV–E foster care maintenance payments pursuant to a state–tribal agreement as described in section 472(a)(2)(B)(ii) of the Act. This is because the state's agreement with the tribe is to provide title IV–E foster care maintenance payments to a child under the tribe's placement and care responsibility. Additionally, tribal title IV–E agencies are not required to collect and report the data elements proposed in paragraph (i). The data elements in § 1355.43(i) are subject to the same compliance and penalty requirements in §§ 1355.45 and 1355.46, respectively, proposed in the February 2015 AFCARS NPRM (80 FR 7187–7192 and 7220–7221).

Definitions

In paragraph (i)(1), ACF proposes to require that unless otherwise specified, the following terms have the same meaning as in ICWA, at 25 U.S.C. 1903: Child custody proceeding, extended family member, Indian, Indian child, Indian child's tribe, Indian custodian, Indian organization, Indian tribe, parent, reservation, and tribal court. It is important to note that the term "Indian child" in this section does not refer to a racial classification, but rather is defined by ICWA as a child who is either a member of an Indian tribe, or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. Each term is listed in the regulatory language below with the corresponding ICWA statutory citation.

In paragraph (i)(2), ACF proposes to require that for all children in the out-of-home care reporting population per § 1355.41(a), the state title IV–E agency must complete the data elements in paragraphs (i)(3) through (5).

Identifying an "Indian Child" Under the Indian Child Welfare Act

In paragraph (i)(3), ACF proposes to require that the state title IV–E agency report whether the state title IV–E agency inquired about pertinent information on a child's status as an "Indian child" under ICWA. This includes: Reporting whether the child is a member of or eligible for membership in an Indian tribe; the child's biological or adoptive parents are members of an Indian tribe; inquiring about the child's status as an "Indian child" with the child, his/her biological or adoptive parents (if not deceased), and the child's Indian custodian (if the child has one); ascertaining whether the domicile or residence of the child, parent, or the Indian custodian is known by the agency, or is shown to be, on an Indian reservation.

This data will provide information on whether state title IV–E agencies and state courts are evaluating whether the child meets the definition of "Indian child" under ICWA. These are threshold questions indicating whether the state title IV–E agency knows or has "reason to know" that a child is an Indian child and thus is subject to the protections under ICWA. Without inquiry, many Indian children are not identified, thereby denying children, parents, and Indian tribes procedural and substantive protections under ICWA. These data elements represent the minimum that a state title IV–E agency should be collecting to determine whether the child is an Indian child under ICWA. Such elements will help establish demographics necessary in identifying ICWA cases that involve parents who are tribal members or that involve an Indian custodian. Proactively identifying Indian children will improve the AFCARS data on AI/AN child foster care cases, adoption through the title IV–E agencies, as well as provide a base for understanding the percentage of AI/AN cases to which ICWA applies. More accurate data will help ACF better understand the scope of ICWA's impact in AI/AN child foster care cases and state systems, help identify where the application of ICWA may need reinforcement, and help inform ACF technical assistance to state title IV–E agencies.

Application of ICWA

In paragraph (i)(4), ACF proposes to require that the state title IV–E agency indicate whether it knows or has reason to know that the child is an Indian child under ICWA. If so, the state title IV–E agency must indicate the date that the state title IV–E agency discovered information that indicates that the child is or may be an Indian child and identify all federally recognized Indian tribes identified that may potentially be the Indian child's tribe(s).

In paragraph (i)(5), ACF proposes that the state title IV–E agency must indicate whether a court order indicates that a court found that ICWA applies, the date of the finding, and the name of the Indian tribe if listed on the court order.

If the state title IV–E agency responds with "yes" to the data elements in paragraphs (i)(4) or (5), then the agency must complete the remaining applicable paragraphs (i)(6) through (29) of this section, which includes information on: Transfers to tribal court; notification of child custody proceedings; active efforts to prevent removal and to reunify with the Indian family; foster care and adoptive placement preferences; and termination of parental rights.

Because not all AI/AN children meet the definition of "Indian child" under ICWA, these data elements are critical to identify the national number of AI/AN child foster care cases to which ICWA applies. Data elements related to whether ICWA applies are essential because application of ICWA triggers procedural and substantive protections. The date the agency received information as to whether the child is an Indian child under ICWA is essential to understanding the time-lapse between knowing that a child is an Indian child and tribal notification. A long time-lapse can indicate a delay in the application of the ICWA protections. Additionally, identifying Indian tribes that may potentially be the Indian child's tribe will help tribes, states, and the federal government direct resources into developing relationships that will streamline the process of identifying Indian children.

Transfer to Tribal Court

In paragraphs (i)(6) and (7), ACF proposes to require that the state title IV–E agency report certain information on whether a case was transferred from state court to tribal court, in accordance with 25 U.S.C. 1911(b). In paragraphs (i)(6), ACF proposes to require that the state title IV–E agency report whether a court order indicates that the Indian child's parent, Indian custodian, or Indian child's tribe requested, orally on the record or in writing, that the state court transfer the case to the tribal court of the Indian child's tribe, in accordance with 25 U.S.C. 1911(b), at any point during the report period. In paragraph (i)(7), if the state court denied the request to transfer the case to tribal court, ACF proposes to require that the state title IV–E agency report whether there is a court order that indicates the reason(s) why the case was not transferred to the tribal court. If a court order exists, justification for denying a transfer must be indicated from among a list of three options, as outlined in ICWA statute: (1) Either of the parents objected to transferring the case to the tribal court; or (2) the tribal court declined the transfer to the tribal court; or (3) the state court found good cause not to transfer the case to the tribal court.

The data in this section will provide an understanding of how many children in foster care with ICWA protections are or are not transferred to the Indian child's tribe and an understanding of the reasons why a state court did not transfer the case. Additionally, ACYF–CB–PI–14–03 (issued March 5, 2014) requires, among other things, that states develop, in consultation with tribes, measures to determine whether tribes are able to effectively intervene and, where appropriate, transfer proceedings to tribal jurisdiction. One focus of the Child and Family Services Reviews conducted by the Children's Bureau is the importance of preserving a child's cultural connections. This data will aid in understanding how a state may preserve a child's connection to his/her tribe. In addition, transfer data will aid in identifying capacity needs and issues in tribal child welfare systems that may prevent tribes from taking jurisdiction. Transfer data will help identify opportunities to build relationships between states and tribes. The data will also indicate whether additional tribal court resources are needed to improve transfer rates, or additional training for state courts is required regarding appropriate "good cause" exceptions to transfer.

Notification

In paragraphs (i)(8) through (10), ACF proposes to require that the state title IV–E agency report certain information about legal notice to the Indian child's parent, Indian custodian, and Indian child's tribe regarding the child custody proceeding as defined in ICWA. ACF proposes to require that the state title IV–E agency report: Whether the Indian child's biological or adoptive parent or Indian custodian were given proper legal notice of the child custody proceeding more than 10 days prior to the first child custody proceeding in accordance with 25 U.S.C. 1912(a); whether the Indian child's tribe (if known) was given proper legal notice of the child custody proceedings more than 10 days prior to the first child custody proceeding; which Indian tribe(s) were sent notice of the child custody proceeding; and whether the state title IV–E agency replied with additional information that the Indian child's tribe(s) requested, if such a request was made.

State child welfare agencies may have this information in their case files, regardless whether the notice was sent by the agency or the court. Notice to the Indian child's parents, Indian custodian, and tribe about child custody proceedings, as defined in ICWA, and the timing of the notice is an essential procedural protection provided by ICWA. ICWA requires that the party seeking foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe of the pending proceedings, including notice of their right of intervention and that no foster care placement or termination of parental rights proceeding shall be held until at least ten days after notice is received (25 U.S.C. 1912(a)). Notifying individuals and tribes of their rights and requirements in every child custody proceeding is critical to meaningful access to and participation in adjudications. Further, improper notice is a common basis for an appeal under ICWA, resulting in failure of process and unnecessary costs and delay. The data reported in this section will provide an understanding of how legal notice and adherence to the timeframes in ICWA may impact an Indian child's case. The data will also help identify technology, capacity, and training needs for meeting legal notice requirements, as well as opportunities for technical assistance and relationship-building between states and tribes.

Active Efforts To Prevent Removal and Reunify the Indian Family

In paragraphs (i)(11) through (13), ACF proposes to require that the state title IV–E agency report whether and when the state title IV–E agency began to make active efforts to prevent the breakup of the Indian family prior to the child's most recent out-of-home care episode, whether the court found in a court order that the state title IV–E agency made active efforts to prevent the breakup of the Indian family, and that these efforts were unsuccessful, and what active efforts the state title IV–E agency made to prevent the breakup of the Indian family (see 25 U.S.C. 1912(d)).

Providing active efforts to prevent the breakup of Indian families is a key component of the ICWA protections (25 U.S.C. 1912(d)). Under ICWA, any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child must demonstrate to the court that active efforts have been made to provide remedial services and rehabilitative programs designed to avoid the need to remove the Indian child, or terminate parental rights. Thus, state title IV–E agencies are required to identify and offer programs and services to prevent the breakup of Indian families which includes services to maintain and reunite an Indian child with his or her family and to promote the stability and security of the Indian family. Where such efforts are meaningful and effective, exits from child welfare systems increase and a reduction in disproportionality in state child welfare systems logically follows.

Proposed ICWA-related AFCARS data regarding active efforts will provide a better understanding of the status of Indian children in foster care, how these efforts may impact an Indian child's case, and the role of the courts in making findings. The data will also help identify service needs and efficacy; capacity needs; the need for training and technical assistance; and opportunities to build relationships between states and tribes.

Removals

In paragraph (i)(14), ACF proposes to require that the state title IV–E agency report whether the state court found by clear and convincing evidence, in a court order, that continued custody of the Indian child by the parent or Indian custodian was likely to result in serious emotional or physical damage to the Indian child in accordance with 25 U.S.C. 1912(e); and whether the court finding indicates that the state court's finding was supported by the testimony of a qualified expert witness in accordance with 25 U.S.C. 1912(e).

This is an important protection under ICWA for Indian children given that the standard for removal of an Indian child is established by ICWA and may be different than in non-ICWA foster care cases. In ICWA, Congress created minimum federal standards for removal to prevent the continued breakup of Indian families. ICWA's legislative history reflects clear Congressional intent: "It is clear then that the Indian child welfare crisis is of massive proportions and that Indian families face vastly greater risks of involuntary separation than are typical of our society as a whole." (H. Rep. 95–1386 (July 24, 1978)). The proposed ICWA-related AFCARS data element will provide data on the extent to which

Indian children are removed in a manner that conforms to ICWA's statutory standard, informs ACF about the frequency of and evidentiary standards applied to removals of Indian children, helps identify needs for training and technical assistance related to ICWA statutory standards, and highlights substantive opportunities for building and improving relationships between states and tribes.

Foster Care and Pre-Adoptive Placement Preferences

In paragraphs (i)(15) through (18), ACF proposes to require that state title IV–E agencies report certain information on the foster care and pre-adoptive placement of Indian children, specifically, the placement of such children in the least restrictive setting that most approximates a family within reasonable proximity to his or her home in accordance with preferences established in ICWA at 25 U.S.C. 1915(b), or preferences established by tribal resolution 25. U.S.C. 1915(c).

In paragraph (i)(15), the state title IV–E agency must indicate which foster care and pre-adoptive placements from a list of five are available to accept placement of the Indian child. The five placements options are: A member of the Indian child's extended family; a foster home licensed, approved, or specified by the Indian child's tribe; an Indian foster home licensed or approved by an authorized non-Indian licensing authority; an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs; and a placement that complies with the order of preference for foster care or pre-adoptive placements established by an Indian child's tribe, in accordance with 25 U.S.C. 1915(c).

In paragraph (i)(16), the state title IV–E agency must indicate whether the Indian child's current placement as of the end of the report period meets the placement preferences of ICWA at 25 U.S.C. 1915(b) by indicating with whom the Indian child is placed from a list of six response options. The placements are: A member of the Indian child's extended family; a foster home licensed, approved, or specified by the Indian child's tribe; an Indian foster home licensed or approved by an authorized non-Indian licensing authority; an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs; a placement that complies with the order of preference for foster care or pre-adoptive placements established by an Indian child's tribe, in accordance with 25 U.S.C. 1915(c); or none.

In paragraph (i)(17), the state title IV–E agency must indicate whether the state court made a finding of good cause, on a court order, to place the Indian child with someone who is not listed in the placement preferences of ICWA in 25 U.S.C. 1915(b) or the placement preferences of the Indian child's tribe, if the placement preferences for foster care and pre-adoptive placements were not followed. In paragraph (i)(18), the state title IV–E agency must indicate the state court's basis for the finding of good cause, as indicated on the court order, from a list of five response options: Request of the biological parents; request of the Indian child; the unavailability of a suitable placement that meets the placement preferences in ICWA at 25 U.S.C. 1915; the extraordinary physical or emotional needs of the Indian child; or other.

The requirements around placement preferences in ICWA are a key piece of the protections mandated by ICWA. Placement preferences serve to protect the best interests of Indian children and promote the stability and security of families and Indian tribes by keeping Indian children with their extended families or in Indian foster homes and communities. The placement preferences in ICWA are congruent with the title IV–E plan requirement in section 471(a)(19) of the Act regarding preference to an adult relative over a non-related caregiver when determining the placement for a child. Data from the National Survey of Child and Adolescent Well-Being indicates that opportunities for kinship placements vary widely by age for AI/AN children when compared to other children of the same age. New AFCARS data will help to adequately assess the current status of kinship placements as well as to help identify a national plan for meeting permanency goals through kinship placements.

Factors unique to Indian children, including the availability of American Indian foster homes, influence decisions about the placement of Indian children. These factors include the characteristics of the foster home, the number of placements a child will have, and the duration of the stay (GAO–05–290, p.3). The information from these data elements will allow ACF to distinguish between ICWA cases in which there was no available ICWA-preferred placement and those cases where an available ICWA-preferred placement was not used despite its availability. The data will help to identify trends or problems that may require enhanced recruitment of potential Indian foster homes or relative placements. This information will help to identify the training and technical assistance needs of states to support recruitment and support foster families to meet the unique cultural, social, extracurricular, and linguistic needs of Indian children. Reporting information on good cause will help agencies better understand why the ICWA placement preferences are not followed. In addition, such information will aid in targeting training and resources needed to assist states in improving Indian child outcomes.

Termination of Parental Rights

In paragraphs (i)(19) through (24), ACF proposes to require that the state title IV–E agency report information regarding voluntary and involuntary terminations of parental rights (TPR), which include tribal customary adoptions. The information includes: Whether the rights of the Indian child's parents or Indian custodian were involuntarily or voluntarily terminated; whether, prior to ordering an involuntary termination of parental rights, the state court found beyond a reasonable doubt, in a court order, that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child in accordance with 25 U.S.C. 1912(f); whether the state court indicates that its finding was supported by the testimony of a qualified expert witness in accordance with 25 U.S.C. 1912(f); and if the TPR was voluntary, whether there is a court order that indicates that the voluntary consent to termination for the biological or adoptive mother and biological or adoptive father or Indian custodian was made in writing and recorded in the presence of a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian in accordance with 25 U.S.C. 1913.

Distinguishing between involuntary and voluntary terminations of parental rights is important in ICWA given specific protections that must be provided in each context (25 U.S.C. 1912(e), (f) and 25 U.S.C. 1913). In addition, termination standards are important protections for Indian children under ICWA given that Congress specifically created minimum federal standards for removal of an Indian child to prevent the breakup of Indian families and to promote the stability and security of families and Indian tribes by preserving the child's links to their parents and to the tribe through the child's parent(s). Further, a TPR may affect a child's ability to be a full member of his/her tribe, preventing the child from accessing services and benefits available to tribal members. Whether the Indian child's parents' rights were terminated in a manner that conforms to the statutory standard informs ACF as to when an Indian child's parental rights are terminated, helps identify the need for training and technical assistance to meet statutory standards, and highlights substantive opportunities for building relationships between states and tribes.

Adoption Proceedings

In paragraphs (i)(25) through (29), ACF proposes to require that the state title IV–E agency report certain information on adoptive placement preferences, which are requirements in ICWA at 25 U.S.C. 1915(a), if the Indian child exited foster care to adoption per § 1355.43(g).

In paragraph (i)(25), the state title IV–E agency must indicate whether the child exited foster care to adoption per § 1355.43(g). This is a driver question for this section; if the state title IV–E agency indicates "yes," then the agency must complete the elements in this section; if the state title IV–E agency indicates "no," then the agency must skip the elements in this section.

In paragraph (i)(26), the state title IV–E agency must indicate which adoptive placements from a list of four were willing to accept placement of the Indian child. Adoption placements preferences are found in ICWA at 25 U.S.C. 1915(a) as follows: A member of the Indian child's extended family; other members of the Indian child's tribe; other Indian families; or a placement that complies with the order of preference for adoptive placements established by an Indian child's tribe, in accordance with 25 U.S.C. 1915(c).

In paragraph (i)(27), the state title IV–E agency must indicate whether the placement reported in § 1355.43(h) meets the placement preferences of ICWA in 25 U.S.C. 1915(a) by indicating with whom the Indian child is placed from a list of five response options. The placements preferences are: A member of the Indian child's extended family; other members of the Indian child's tribe; other Indian families; or a placement that complies with the order of preference for adoptive placements established by an Indian child's tribe, in accordance with 25 U.S.C. 1915(c); or none.

In paragraph (i)(28), the state title IV–E agency must indicate whether the state court made a finding of good cause, in a court order, to place the Indian child with someone who is not listed in the placement preferences of ICWA in 25 U.S.C. 1915(a) or the placement preferences of the Indian child's tribe, if the placement preferences for adoptive placements were not followed. In paragraph (i)(29), the state title IV–E agency must indicate the state court's basis for the finding of good cause, as indicated in the court order, from a list of five response options: Request of the biological parents; request of the Indian child; the unavailability of a suitable placement that meets the placement preferences in ICWA at 25 U.S.C. 1915; the extraordinary physical or emotional needs of the Indian child; or other.

The requirements for adoption placement preferences in ICWA are a key piece of the protections provided under ICWA. Placement preferences serve the policies of protecting the best interests of Indian children and promoting the stability and security of families and Indian tribes by keeping adopted Indian children with their extended families, tribes or communities. These data elements will help provide greater understanding on how best to support Indian children in cases where adoption is the outcome. The data are important to assist in identifying trends or problems that may require enhanced recruitment of potential Indian adoptive homes or relative placements. The information from these data elements will allow ACF to distinguish between ICWA cases in which there was no available ICWA-placement and those cases where an available ICWA-placement was not used. The data will help assess the current status of kinship guardianship placements as well as to help identify a national plan for meeting permanency goals through kinship guardianship. This information will help to identify the scope of resources for training and technical assistance needed for states to recruit and support adoptive families to meet the unique cultural, social, and enrichment activity needs of Indian children. Reporting information on good cause to not follow ICWA adoption placement preferences will help to understand why the ICWA placement preferences are not followed, and will aid in identifying targeted training and resource needs to assist states in improving Indian child outcomes.

ATTACHMENT A—PROPOSED OUT-OF-HOME CARE DATA FILE ELEMENTS RELATED TO ICWA

Category & applicability	Element	Response options	Section citation
Identifying an "Indian Child" under the Indian Child Welfare Act.	Indicate whether the state title IV–E agency researched whether there is a reason to know that the child is an "Indian child" under ICWA:	....	1355.43(i)(3).
These data elements will be reported for all children.	• Indicate whether the state agency inquired with the child's biological or adoptive mother.	Yes. No. The biological or adoptive mother is deceased.	
	• Indicate whether the biological or adoptive mother is a member of an Indian tribe.	Yes. No. Unknown.	
	• Indicate whether the state agency inquired with the child's biological or adoptive father.	Yes. No. The biological or adoptive father is deceased.	
	• Indicate whether the biological or adoptive father is a member of an Indian tribe.	Yes. No. Unknown.	
	• Indicate whether the state agency inquired with the child's Indian custodian, if the child has one.	Yes. No. Child does not have an Indian custodian.	

ATTACHMENT A—PROPOSED OUT-OF-HOME CARE DATA FILE ELEMENTS RELATED TO ICWA—Continued

Category & applicability	Element	Response options	Section citation
	• Indicate whether the state agency inquired with the child who is the subject of the proceeding.	Yes. No.	
	• Indicate whether the child is a member of or eligible for membership in an Indian tribe.	Yes. No. Unknown.	
	• Indicate whether the domicile or residence of the child, parent, or the Indian custodian is known by the agency to be, or is shown to be, on an Indian reservation.	Yes. No.	
Application of ICWA	• Indicate whether the state title IV–E agency knows or has reason to know that the child is an Indian child as defined by ICWA.	Yes No.	1355.43(i)(4).
These data elements will be reported for all children.	• Indicate the date that the state title IV–E agency discovered the information that indicates that the child is or may be an Indian child.	Date..	
	• Indicate the name(s) of all federally recognized Indian tribe(s) identified that may potentially be the Indian child's tribe(s).	Name(s)..	
These data elements will be reported for all children.	Indicate whether a court order indicates that the court found that ICWA applies.	Yes, ICWA applies No, ICWA does not apply. No court finding.	1355.43(i)(5).
	• Indicate the date of the court finding	Date.	
	• Indicate the name of the Indian tribe(s) that the court found is the Indian child's tribe, if listed on the court order.	Name(s). No name listed.	
Transfer to tribal court These data elements and all of those below only apply to Indian children.	Indicate whether there is a court order that indicates that the Indian child's parent, Indian custodian, or Indian child's tribe requested, orally on the record or in writing, that the state court transfer the case to the tribal court of the Indian child's tribe, in accordance with 25 U.S.C. 1911(b), at any point during the report period.	Yes No.	1355.43(i)(6).
	If the state court denied the request to transfer the case to tribal court, indicate whether there is a court order that indicates the reason(s) why the case was not transferred to the tribal court.	Yes No.	1355.43(i)(7).
	• Either of the parents objected to transferring the case to the tribal court.	Yes. No.	
	• The tribal court declined the transfer to the tribal court.	Yes. No.	
	• The state court found good cause not to transfer the case to the tribal court.	Yes. No.	
Notification	Indicate whether the Indian child's parent or Indian custodian was given proper legal notice more than 10 days prior to the first child custody proceeding in accordance with 25 U.S.C. 1912(a).	Yes No.	1355.43(i)(8).
	Indicate whether the Indian child's tribe(s) was given proper legal notice more than 10 days prior to the first child custody proceeding in accordance with 25 U.S.C. 1912(a).	Yes No. The child's Indian tribe is unknown.	
	Indicate the name(s) of the Indian tribe(s) that were sent notice for a child custody proceeding as required in ICWA at 25 U.S.C. 1912(a).	Name(s)	1355.43(i)(9).
	If the tribe(s) requested additional information, indicate whether the state title IV–E agency replied with the additional information that the Indian tribe(s) requested.	Yes No. Does not apply.	1355.43(i)(10).
Active efforts to prevent removal and reunify with Indian family.	Indicate the date that the state title IV–E agency began making active efforts to prevent the breakup of the Indian family for the most recent removal reported in § 1355.43(d) of the Indian child in accordance with 25 U.S.C. 1912(d).	Date	1355.43(i)(11).
	Indicate whether the court found, in a court order, that the state title IV–E agency made active efforts to prevent the breakup of the Indian family for the most recent removal reported in § 1355.43(d) and that these efforts were unsuccessful in accordance with 25 U.S.C. 1912(d).	Yes No.	1355.43(i)(12).

ATTACHMENT A—PROPOSED OUT-OF-HOME CARE DATA FILE ELEMENTS RELATED TO ICWA—Continued

Category & applicability	Element	Response options	Section citation
	Indicate the active efforts that the state title IV–E agency made to prevent the breakup of the Indian family in accordance with 25 U.S.C. 1912(d).		1355.43(i)(13).
	• Identify appropriate services to help the parent.	Yes. No.	
	• Actively assist the parent in obtaining services	Yes. No.	
	• Invite representatives of the Indian child's tribe to participate in the proceedings.	Yes. No.	
	• Complete a comprehensive assessment of the family.	Yes. No.	
	• Focus on safe reunification as the goal for the Indian child.	Yes. No.	
	• Consult with extended family members to provide support for the Indian child.	Yes. No.	
	• Arrange for family interaction in most natural setting safely possible.	Yes. No.	
	• Monitor progress and participation in services to reunite the Indian family.	Yes. No.	
	• Consider alternative ways of addressing the needs of the Indian child's parent and extended family if services do not exist or are not available.	Yes. No.	
	• Support regular visits and trial home visits consistent with ensuring the Indian child's safety.	Yes. No.	
	• Conduct or cause to be conducted a diligent search for the Indian child's extended family members for assistance and possible placement.	Yes. No.	
	• Keep siblings together	Yes. No. N/A.	
	• Other	Yes. No.	
Removals	Indicate whether the court found by clear and convincing evidence, in a court order, that continued custody of the Indian child by the parent or Indian custodian was likely to result in serious emotional or physical damage to the Indian child in accordance with 25 U.S.C. 1912(e).	Yes No.	1355.43(i)(14).
	Indicate whether the court finding indicates that the state court's finding was supported by the testimony of a qualified expert witness in accordance with 25 U.S.C. 1912(e).	Yes. No.	
Foster care and pre-adoptive placement preferences.	Indicate which foster care or pre-adoptive placements that meet the placement preferences of ICWA in 25 U.S.C. 1915(b) were available to accept placement.		1355.43(i)(15).
	• A member of the Indian child's extended family.	Yes. No.	
	• A foster home licensed, approved, or specified by the Indian child's tribe.	Yes. No.	
	• An Indian foster home licensed or approved by an authorized non-Indian licensing authority.	Yes. No.	
	• An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.	Yes. No.	
	• A placement that complies with the order of preference for foster care or pre-adoptive placements established by an Indian child's tribe, in accordance with 25 U.S.C. 1915(c).	Yes. No.	
	For the Indian child's current foster care or pre-adoptive placement as of the end of the report period per § 1355.43(e), indicate whether the placement meets the placement preferences of ICWA in 25 U.S.C. 1915(b) by indicating with whom the Indian child is placed.	A member of the Indian child's extended family. A foster home licensed, approved, or specified by the Indian child's tribe.	1355.43(i)(16).

ATTACHMENT A—PROPOSED OUT-OF-HOME CARE DATA FILE ELEMENTS RELATED TO ICWA—Continued

Category & applicability	Element	Response options	Section citation
		An Indian foster home licensed or approved by an authorized non-Indian licensing authority. An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs. A placement that complies with the order of preference for foster care or pre-adoptive placements established by an Indian child's tribe, in accordance with 25 U.S.C. 1915(c). None.	
	If the placement preferences for foster care or pre-adoptive placements were not followed, indicate whether the court made a finding of good cause, on a court order, to place the Indian child with someone who is not listed in the placement preferences of ICWA in 25 U.S.C. 1915(b) or the placement preferences of the Indian child's tribe.	Yes No.	1355.43(i)(17).
	Indicate the state court's basis for the finding of good cause, as indicated on the court order.		1355.43(i)(18).
	• Request of biological parents	Yes. No.	
	• Request of Indian child	Yes. No.	
	• The unavailability of a suitable placement that meets the placement preferences in ICWA at 25 U.S.C. 1915.	Yes. No.	
	• The extraordinary physical or emotional needs of the Indian child.	Yes. No.	
	• Other	Yes. No.	
Termination of parental rights	Indicate whether the termination of parental (or Indian custodian rights was voluntary or involuntary.	Voluntary Involuntary.	1355.43(i)(19).
	Indicate whether, prior to ordering a termination of parental rights, the state court found beyond a reasonable doubt, in a court order, that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child in accordance with 25 U.S.C. 1912(f).	Yes No.	1355.43(i)(20).
	Indicate whether the court finding, reported for paragraph (i)(20), indicates that the state court's finding was supported by the testimony of a qualified expert witness in accordance with 25 U.S.C. 1912(f).	Yes No.	1344.43(i)(21).
	If voluntary, indicate whether there is a court order that indicates that the voluntary consent to termination for the biological or adoptive mother was made in writing and recorded in the presence of a judge in accordance with 25 U.S.C. 1913.	Yes No. Does not apply.	1355.43(i)(22).
	If voluntary, indicate whether there is a court order that indicates that the voluntary consent to termination for the biological or adoptive father was made in writing and recorded in the presence of a judge in accordance with 25 U.S.C. 1913.	Yes No. Does not apply.	1355.43(i)(23).
	If voluntary, indicate whether there is a court order that indicates that the voluntary consent to termination for the Indian custodian was made in writing and recorded in the presence of a judge in accordance with 25 U.S.C. 1913.	Yes No. Does not apply.	1355.43(i)(24).
Adoption proceedings	Indicate whether the Indian child exited foster care to adoption per § 1355.43(g).	Yes No.	1355.43(i)(25).
	Indicate which adoptive placements that meet the placement preferences in ICWA at 25 U.S.C. 1915(a) were willing to accept placement.		1355.43(i)(26).

ATTACHMENT A—PROPOSED OUT-OF-HOME CARE DATA FILE ELEMENTS RELATED TO ICWA—Continued

Category & applicability	Element	Response options	Section citation
	• A member of the Indian child's extended family.	Yes. No.	
	• Other members of the Indian child's tribe	Yes. No.	
	• Other Indian families	Yes. No.	
	• A placement that complies with the order of preference for foster care or pre-adoptive placements established by an Indian child's tribe, in accordance with 25 U.S.C. 1915(c).	Yes. No.	
	Indicate whether the placement reported in § 1355.43(h) meets the placement preferences of ICWA in 25 U.S.C. 1915(a) by indicating with whom the Indian child is placed.	A member of the Indian child's extended family. Other members of the Indian child's tribe.	1355.43(i)(27).
	Other Indian families. A placement that complies with the order of preference for foster care or pre-adoptive placements established by an Indian child's tribe, in accordance with 25 U.S.C. 1915(c). None.		
	If the placement preferences for adoption were not followed, indicate whether the court made a finding of good cause, on a court order, to place the Indian child with someone who is not listed in the placement preferences of ICWA in 25 U.S.C. 1915(a) or the placement preferences of the Indian child's tribe.	Yes No.	1355.43(i)(28).
	Indicate whether there is a court order that indicates the court's basis for the finding of good cause.		1355.43(i)(29).
	• Request of the biological parents	Yes. No.	
	• Request of the Indian child	Yes. No.	
	• The unavailability of a suitable placement that meets the placement preferences in ICWA at 25 U.S.C. 1915.	Yes. No.	
	• The extraordinary physical or emotional needs of the Indian child.	Yes. No.	
	• Other	Yes. No.	

VI. Regulatory Impact Analysis

Executive Order 12866

Executive Order (E.O.) 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the E.O. The Department has determined that this proposed rule is consistent with these priorities and principles. In particular, ACF has determined that a regulation is the best and most cost effective way to implement the statutory mandate for a data collection system regarding children in foster care and those that are adopted and support other statutory obligations to provide oversight of child welfare programs. ACF consulted with the Office of Management and Budget (OMB) and determined that this proposed rule does meet the criteria for a significant regulatory action under E.O. 12866. Thus, it was subject to OMB review.

ACF determined that the costs to title IV–E agencies as a result of this rule will not be significant. Federal reimbursement under title IV–E will be available for a portion of the costs that title IV–E agencies will incur as a result of the revisions proposed in this rule, depending on each agency's cost allocation plan, information system, and other factors.

Alternatives Considered:

1. ACF considered not collecting certain ICWA-related data in AFCARS. Not including ICWA-related data elements in AFCARS, or including too few data elements, may exclude Indian children and families from the additional benefit of improving AFCARS data.

2. ACF considered whether other existing data sets could yield similar information. ACF determined that AFCARS is the only comprehensive case-level data set on the incidence and experiences of children who are in foster care and/or adoption or guardianship with the involvement of the state or tribal title IV–E agency.

3. Previously, ACF considered whether to permit title IV–E agencies to sample and report information on a representative population of children. Such an alternative is unacceptable given the significant limitations associated with using a sampling approach for collecting data, including data on AI/AN children who are in foster care, adoption, and guardianship programs. Under a sampling approach, ACF would be unable to report reliable data responsive to the Annual Outcomes Report to Congress, the Report to Congress on the Social and Economic Conditions of Native Americans, and Adoption Incentives. Second, when using a sample, small population subgroups (*e.g.,* children who spend very long periods in foster care or children who are adopted or run away) might occur so rarely in the data such

that analysis on these subgroups would not be meaningful. Sampling error with respect to AI/AN populations is already a well-established issue affecting the validity and meaningfulness of large national surveys like the American Community Survey. It is a well-established that, historically, quantitative and qualitative data on AI/AN populations, including children, has been incomplete and unreliable resulting in such populations being among the most under-counted populations groups in the United States.

4. In each of 18 states, there were fewer than 10 Indian children in foster care according to FY 2013 AFCARS data. For states that have few Indian children in foster care, ACF considered alternatives to collecting ICWA-related data through AFCARS, such as providing an exemption from reporting, or an alternative submission process or that would be less burdensome. While ACF recognizes collecting the proposed ICWA-related data may be burdensome for states with few Indian children in foster care, the alternative approaches are not feasible due to:

- The statutory requirement that AFCARS data be comprehensive. Section 479(c)(3) requires that AFCARS provide "comprehensive national information." Exempting some states from reporting the proposed ICWA-related data elements is not consistent with this statutory mandate, and would render it difficult to use this data for development of national policies for Indian children.
- The statutory requirement for assessing penalties on AFCARS data. Section 474(f) of the Act penalizes the title IV–E agency for non-compliance based on the total amount expended by the state for administration of foster care activities. The statute provides for mandatory penalties, therefore, we are not authorized to permit some states to be subject to a penalty and not others. In addition, allowing states an alternate submission process would complicate and/or prevent the assessment of penalties as proposed in the February 9, 2015 NPRM in proposed § 1355.46, including penalties for failure to submit data files free of cross-file errors, missing, invalid, or internally inconsistent data, or tardy transactions for each data element of applicable records.
- State agencies that elect to have a SACWIS provide some of the proposed ICWA-related data elements as part of the system requirements will already have systems designed to capture some ICWA-related data.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this rule will not result in a significant impact on a substantial number of small entities. This proposed rule does not affect small entities because it is applicable only to state title IV–E agencies.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act (Pub. L. 104–4) requires agencies to prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation). That threshold level is currently approximately $146 million. This proposed rule does not impose any mandates on state, local, or tribal governments, or the private sector that will result in an annual expenditure of $100 million or more.

Congressional Review

This regulation is not a major rule as defined in 5 U.S.C. 8.

Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 2000 (Pub. L. 106–58) requires federal agencies to determine whether a proposed policy or regulation may affect family well-being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. These proposed regulations will not have an impact on family well-being as defined in the law.

Executive Order 13132

Executive Order (E.O.) 13132 requires that federal agencies consult with state and local government officials in the development of regulatory policies with Federalism implications. Consistent with E.O. 13132, the Department specifically solicits comments from state and local government officials on this proposed rule.

Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 35, as amended) (PRA), all Departments are required to submit to OMB for review and approval any reporting or recordkeeping requirements inherent in a proposed or final rule. Information collection for AFCARS is currently authorized under OMB number 0970–0422. This supplemental notice of proposed rulemaking contains new information collection requirements in proposed § 1355.43, the out-of-home care data file that the Department has submitted to OMB for its review. This SNPRM proposes to require state title IV–E agencies to collect and report ICWA-related data elements in the AFCARS out-of-home care data file. PRA rules require that ACF estimate the total burden created by this SNPRM regardless of what information is already available.

Comments to the February 2015 AFCARS NPRM: ACF understands from comments on the February 2015 AFCARS NPRM that National Association of Public Child Welfare Administrators (NAPCWA) and the states felt that our burden estimates were low for determining the costs to implement the proposed data elements in AFCARS NPRM. However, very few states provided estimates on the burden hours or actual costs to implement the AFCARS NPRM. The comments were primarily about technical or programmer costs to modify the information system to extract the proposed data elements. This did not include the work associated with child welfare agency workers gathering information or being trained in data entry. The estimates received to modify a state information system to extract the proposed AFCARS NPRM data elements (approximately 100) ranged from 2,000 hours to 20,000 hours. Although ACF appreciates that these states provided this information on hourly and cost burden estimates, ACF received too few estimates to assist in calculating the state costs for information systems and other burden associated with this SNPRM. Therefore, ACF provides estimates using the best available information.

Burden Estimate

ACF estimates the annual reporting and record keeping burden hours of this SNPRM to be 192,285 hours. ACF estimates a one-time burden associated with this SNPRM to be 85,072 hours. The 52 respondents comprise 52 state title IV–E agencies. The following are estimates.

Collection	Number of respondents	Number of responses per respondent	Average burden per year per respondent	Total burden hours
Annual Record Keeping and Reporting Burden	52	2	3,697.79	192,285
One-Time Burden	52	1	1,636	85,072

In estimating the burden, ACF included both one-time burden estimates and annual burden estimates:

Annual burden: The annual burden to the state title IV–E agency includes activities such as: Searching data sources and gathering information, entering the information, extracting the information for AFCARS reporting, and transmitting the information to ACF.

One time burden: The one-time burden for this SNPRM, includes activities to: Develop or modify procedures and systems to collect, validate, and verify the information, adjust existing ways to comply with AFCARS requirements, and train personnel on the new AFCARS requirements of this SNPRM.

In developing the burden estimate, ACF made several assumptions about the data in state child welfare information systems. First, ACF assumed that state title IV–E agencies may have access to most of the information for proposed data elements. ACF anticipated the information for these data elements are contained in the state title IV–E agency's paper or electronic case files. ACF estimated that some of the data elements would only be in paper case files or narrative fields, thus not readily able to be extracted for AFCARS reporting, and would require revisions to the electronic case file so that the information can be extracted for AFCARS reporting. Some of these data elements concern collecting information on court findings and other activities taking place during court processes.

ACF proposes for state title IV–E agencies to report information in court orders that the state title IV–E agency would have ready access to or would typically be in the state title IV–E agency's case files. ACF is seeking state feedback as to whether the state agency has these readily available in their agency paper files or electronic files. These are:

- A court order indicating that the child's parent or Indian custodian or the Indian child's tribe requested orally on the record or in writing that the state court transfer the case to the tribal court of the Indian child's tribe, in accordance with 25 U.S.C. 1911(b), and, where applicable, the reason(s) why the case was not transferred.
- A court order indicating the court found by clear and convincing evidence, in a court order, that continued custody of the Indian child by the parent or Indian custodian was likely to result in serious emotional or physical damage to the Indian child in accordance with 25 U.S.C. 1912(e).
- A court order indicating that the court made a finding of good cause, and the basis, if the placement preferences for foster care were not followed, to place the Indian child with someone who is not listed in the placement preferences of ICWA in 25 U.S.C. 1915(b) or the placement preferences of the Indian child's tribe in accordance with 25 U.S.C. 1915(c); and
- If the placement preferences for adoption were not followed, a court finding of good cause, and the basis, on a court order, to place the Indian child with someone who is not listed in the placement preferences of ICWA in 25 U.S.C. 1915(a) or the placement preferences of the Indian child's tribe.

Second, in order to determine the number of cases for which state title IV–E agencies will have to report the ICWA-related data elements, ACF estimated the out-of-home care reporting population using the most recent FY 2014 AFCARS data available submitted by state title IV–E agencies: 415,129 children were in foster care on September 30, 2014 and 264,746 children entered foster care during FY 2014. The state title IV–E agency will be required to report approximately 3 data elements for all children who are in the out-of-home care reporting population and approximately 24 data elements on children to whom the ICWA-related data elements apply.

To estimate the number of children to whom the ICWA-related data elements apply, ACF used as a proxy those children whose race was reported as "American Indian or Alaska Native" in the most recent FY 2014 AFCARS data available. While not every child of this reported race category will be covered under ICWA, it is likely that the state title IV–E agency will have to explore whether these children may be Indian children as defined in ICWA. Thus, 5,960 children who entered foster care during FY 2014 were reported as American Indian or Alaska Native.

Third, ACF assumed that there will be one-time costs to implement the requirements of this SNPRM and annual costs to collect, input, and report the information. The annual costs involve searching data, gathering the information that meet the requirements of this SNPRM, entering the information, and extracting and submitting the information for AFCARS reporting. The one-time costs mostly involve modifying procedures and systems to collect, validate and verify information, adjusting existing ways to comply with AFCARS; and training personnel on the new AFCARS requirements of this SNPRM.

Fourth, ACF assumed that the one-time burden is similar to how long it would take to make revisions to a SACWIS to be able to meet the requirements of the SNPRM. Currently, 36 states have an operational SACWIS. ACF understands that 24 states opted to collect at least a minimal amount of ICWA-related information per the SACWIS Assessment Review Guide, but also recognize that most state title IV–E agencies will require some revisions to meet the requirements of this SNPRM. As more states build SACWIS, ACF anticipates it will lead to more efficiency in reporting and less cost and burden to the state agencies.

Finally, after reviewing the 2014 Bureau of Labor Statistics data to help determine the costs of the SNPRM, ACF assumed that there will be a mix of staff working to meet both the one-time and annual requirements of this SNPRM with the job role of Management Analyst (13–1111) with a mean hourly wage estimate of $43.68 and those with the job role of Social and Community Service Managers (11–9151) with a mean hourly wage estimate of $32.56. Thus, ACF averaged the two wages to come to an average labor rate of $38.12. In order to ensure we took into account overhead costs associated with these labor costs, ACF doubled this rate.

Annual Recordkeeping and Reporting Burden Estimate: ACF estimated the annual recordkeeping and reporting burden by multiplying the time spent on the recordkeeping and reporting activities described below by the number of children in foster care to arrive at the total recordkeeping hours. These estimates represent the work associated with the state title IV–E agency searching data sources and gathering information, entering the information, extracting the information for AFCARS reporting, and transmitting the information to ACF. These estimates are based on our assumptions, described above, on how much of the information proposed in this SNPRM state title IV–E agencies currently have in their electronic or paper case files or information system or have ready access to, while taking into account that some of the elements may require more effort to gather the information if it is not readily accessible.

- Gathering the information for and entering the ICWA-related data elements that apply to all children who enter foster care on average will take approximately 132,373 annual burden hours. (0.5 hours × 264,746 children who entered foster care = 132,373 annual burden hours for all children in the out-of-home care reporting population)
- Gathering the information for and entering the ICWA-related data elements that apply to children in foster care who are covered by ICWA, on average will take 59,600 annual burden hours. (10 hours × 5,960 children who enter foster care with a race reported as American Indian or Alaska Native = 59,600 annual burden hours for children in the out-of-home care reporting population who are covered by ICWA). ACF estimated that it would take a state title IV–E agency on average 10 hours annually to gather and input the ICWA-related data elements that apply to children in foster care who are covered by ICWA. ACF estimated this by assuming that a state title IV–E agency would be gathering and inputting information for approximately 14 of the proposed data elements for an average foster care episode, if the child is not transferred and there is no TPR or adoption. In cases where the child is transferred, ACF estimated that the burden would decrease because the agency would have fewer data elements to complete and the burden would increase in cases where there is a TPR and the child is adopted because there would be more data elements that the agency would have to complete.
- Extracting and submitting the information to ACF for AFCARS reporting on average will take 6 annual burden hours per state title IV–E agency. Nationally, the hour burden for all 52 state title IV–E agencies would be 312 (6 hours × 52 states = 312). ACF took into account the number of data elements proposed in this SNPRM when estimating the reporting burden.

ACF added the bullets above and estimate the number of annual recordkeeping and reporting burden hours that workers will spend on ICWA-related AFCARS requirements in the out-of-home care reporting population annually will be 192,285 hours (132,373 + 59,600 + 312 = 192,285). Dividing this annual figure by the 52 state title IV–E agencies, ACF arrived at approximately 3,698 average burden hours per respondent per year for the ICWA-related information in the AFCARS out-of-home care data file. (192,285 ÷ 52 title IV–E agencies = 3,697.79 average burden hours per respondent per year.)

One-Time Burden Estimate: ACF estimated the one-time burden by adding up the time spent on the activities described below and multiplying it by the 52 state title IV–E agencies to arrive at the one-time burden hours. The one-time burden estimates represent the work associated with the activities described below. As stated above, ACF came to these estimates by using average estimates for revising a SACWIS, which is the best information available. It is also important to note that states will have the option of updating their systems in a streamlined manner since ACF plans to issue the final rules for new AFCARS regulations and for child welfare information systems.

- Modifying procedures and systems (including developing or acquiring technology) to collect, validate, verify, process, and report the information to ACF on average will take approximately 130 burden hours.
- Adjustments to the existing ways to comply with AFCARS, developing technology and systems to collect and process data on average will take approximately 200 burden hours.
- The administrative tasks associated with training personnel on the new AFCARS requirements of this SNPRM which include reviewing instructions, including training development and manuals on average will take approximately 30 burden hours.
- Training personnel on the new AFCARS requirements of this SNPRM on average will take approximately 1,276 burden hours. ACF arrived at this estimate by dividing the number of children in foster care on September 30, 2014 (415,129) by an estimated average caseload of 25 cases per worker to arrive at an estimate of 16,605 workers to be trained. ACF divided this number (16,605) by 52 to account for average workers per state title IV–E agency, and arrived at 319 workers. ACF multiplied the workers (319) by the number of estimated hours to complete training (4 hours) to arrive at 1,276 burden hours to train personnel per state title IV–E agency on the new AFCARS requirements. ACF added the burden hours above (1,636 hours) and multiplied by 52 state title IV–E agencies, which results in a one-time burden of 85,072 hours (1,636 × 52 = 85,072 one-time burden hours).

Total Burden Cost

ACF used a total cost and burden hour estimates to provide additional detail on projected average cost for each state title IV–E agency implementing the changes described in this SNPRM. Once the burden hours were determined, ACF developed an estimate of the associated cost for state title IV–E agencies to conduct these activities, as applicable. Based on our assumptions above, ACF used an average labor rate of $38.12 and doubled this rate to account for overhead costs ($76.24). Based on these rates, ACF estimated the cost for one-time burden to be $6,485,889.28 (85,072 one-time hours × $76.24 hourly cost/overhead = $6,485,889.28) and ACF estimated the cost for annual burden to be $14,659,808.40 (192,285 annual hours × $76.24 hourly cost = $14,659,808.40). Dividing these costs by 52 state title IV–E agencies, ACF estimated the average cost per state title IV–E agency to be $124,728.64 one-time and $281,919.39 annually. Federal reimbursement under title IV–E will be available for a portion of the costs that title IV–E agencies will incur as a result of the revisions proposed in this rule, depending on each agency's cost allocation plan, information system, and other factors.

	Hours	Average hourly labor rate + overhead	Total cost nationwide	Number of respondents	Net average cost per respondent
Total One-Time Burden	85,072	$76.24	$6,485,889.28	52	$124,728.64 One-Time.
Total Annual recordkeeping and reporting burden	192,285	76.24	14,659,808.40	52	281,919.39 Annually.

In the above estimates, ACF acknowledges: (1) ACF has used average figures for state title IV–E agencies of very different sizes and of which, some states may have larger populations of tribal children served than other states, (2) these are rough estimates of the burden because state title IV–E agencies have not been required previously to report ICWA-related information in AFCARS, and (3) as described, ACF has limited information to use in making these estimates. ACF welcomes comments on these factors and all others in this section.

ACF will consider comments by the public on this proposed collection of information in the following areas:

1. Evaluating whether the proposed collection is necessary for the proper performance of the functions of ACF, including whether the information will have practical utility;
2. Evaluating whether the proposed collection is sufficient to assess and serve the unique needs of AI/AN children under the placement and care of title IV–E agencies;
3. Evaluating the accuracy of ACF's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
4. Enhancing the quality, usefulness, and clarity of the information to be collected; and
5. Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology, *e.g.,* permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations. Written comments to OMB for the proposed information collection should be sent directly to the following: Office of Management and Budget, either by fax to 202–395–6974 or by email to *OIRA_submission@omb.eop.gov.* Please mark faxes and emails to the attention of the desk officer for ACF.

VII. Tribal Consultation Statement

As we stated in section IV of this SNPRM, we held one Tribal consultation session via a teleconference call on May 1, 2015 and we did not receive suggestions from tribal representatives during the call. A few tribal representatives indicated that they would comment on the data elements through the SNPRM when it is issued.

We also stated in section IV of this SNPRM that we analyzed comments to the Feb. 2015 AFCARS NPRM that spoke to ICWA-related data elements to help inform this SNPRM. We received 45 comments that spoke to including new data elements in AFCARS related to ICWA; a majority of which were from tribes/tribal organizations. The commenters recommended data elements that provide basic information about the applicability of ICWA for children in out-of-home care, including: Identification of American Indian and Alaskan Native children and their family structure, tribal notification and intervention in state court proceedings, the relationship of the foster parents and other providers to the child, decisions to place a child in out-of-home care (including data on active efforts and continued custody), whether a placement was licensed by an Indian tribe, whether the placement preferences in ICWA were followed, and termination of parental rights (both voluntary and involuntary).

List of Subjects in 45 CFR Part 1355

Adoption and foster care, Child welfare, Grant programs—social programs.

(Catalog of Federal Domestic Assistance Program Number 93.658, Foster Care Maintenance; 93.659, Adoption Assistance; 93.645, Child Welfare Services—State Grants).

Mark H. Greenberg,
Acting Assistant Secretary for Children and Families.

Approved: February 17, 2016.

Sylvia M. Burwell,
Secretary.

For the reasons set forth in the preamble, 45 CFR part 1355 as proposed to be amended on February 9, 2015 (80 FR 7132), is proposed to be further amended as follows:

PART 1355—GENERAL

■ 1. The authority citation for part 1355 continues to read as follows:

Authority: 42 U.S.C. 620 *et seq.,* 42 U.S.C. 670 *et seq.;* 42 U.S.C. 1302.

■ 2. Amend § 1355.43 by adding paragraph (i) to read as follows:

§ 1355.43 Out-of-home care data file elements.

* * * * *

(i) *Data elements related to the Indian Child Welfare Act (ICWA)*—(1) *Definitions.* Unless otherwise specified, the following terms as they appear in this paragraph (i) are defined as follows:

Child custody proceeding has the same meaning as in 25 U.S.C. 1903(1).

Extended family member has the same meaning as in 25 U.S.C. 1903(2).

Indian has the same meaning as in 25 U.S.C. 1903(3).

Indian child has the same meaning as in 25 U.S.C. 1903(4).

Indian child's tribe has the same meaning as in 25 U.S.C. 1903(5).

Indian custodian has the same meaning as in 25 U.S.C. 1903(6).

Indian organization has the same meaning as in 25 U.S.C. 1903(7).

Indian tribe has the same meaning as in 25 U.S.C. 1903(8).

Parent has the same meaning as in 25 U.S.C. 1903(9).

Reservation has the same meaning as in 25 U.S.C. 1903(10).

Tribal court has the same meaning as in 25 U.S.C. 1903(12).

(2) For all children in the out-of-home care reporting population per § 1355.41(a), the state title IV–E agency must complete the data elements in paragraphs (i)(3) through (5) of this section. If the state title IV–E agency responds with "yes" to the data elements in paragraph (i)(4) or (5) of this section, then the agency must complete the remaining applicable paragraphs (i)(6) through (29) of this section.

(3) *Identifying an "Indian Child" under the Indian Child Welfare Act.* Indicate whether the state title IV–E agency researched whether there is a reason to know that the child is an Indian child under ICWA in each paragraph (i)(3)(i) through (viii) of this section.

(i) Indicate whether the state agency inquired with the child's biological or adoptive mother. Indicate "yes," "no" or "the biological or adoptive mother is deceased."

(ii) Indicate whether the biological or adoptive mother is a member of an Indian tribe. Indicate "yes," "no" or "unknown."

(iii) Indicate whether the state agency inquired with the child's biological or adoptive father. Indicate "yes," "no," or "the biological or adoptive father is deceased."

(iv) Indicate whether the biological or adoptive father is a member of an Indian tribe. Indicate "yes," "no," or "unknown."

(v) Indicate whether the state agency inquired with the child's Indian custodian, if the child has one. Indicate "yes," or "no" or "child does not have an Indian custodian."

(vi) Indicate whether the state agency inquired with the child who is the subject of the proceeding. Indicate "yes" or "no."

(vii) Indicate whether the child is a member of or eligible for membership in an Indian tribe. Indicate "yes," "no," or "unknown."

(viii) Indicate whether the domicile or residence of the child, parent, or the Indian custodian is known by the agency to be, or is shown to be, on an Indian reservation. Indicate "yes" or "no."

(4) *Application of ICWA.* Indicate whether the state title IV–E agency knows or has reason to know that the child is an Indian child as defined by ICWA. Indicate "yes" or "no." If the state title IV–E agency indicated "yes," the state title IV–E agency must complete the data elements in paragraphs (i)(4)(i) and (ii) of this section. If the state title IV–E agency indicated "no," the state title IV–E agency must leave the data elements in paragraphs (i)(4)(i) and (ii) of this section blank.

(i) Indicate the date that the state title IV–E agency discovered the information that indicates that the child is or may be an Indian child.

(ii) Indicate the name(s) of all federally recognized Indian tribe(s) that may potentially be the Indian child's tribe(s).

(5) Indicate whether a court order indicates that the court found that ICWA applies. Indicate "yes, ICWA applies," "no, ICWA does not apply," or "no court finding." If the state title IV–E agency indicated "yes, ICWA applies," the state title IV–E agency must complete paragraphs (i)(5)(i) and (ii) of this section. If the state title IV–E agency indicated "no, ICWA does not apply," the state title IV–E agency must complete the data element in paragraph (i)(5)(i) of this section and leave the data element in paragraph (i)(5)(ii) of this section blank. If the state title IV–E agency indicated "no court finding," the state title IV–E agency must leave the data elements in paragraphs (i)(5)(i) and (ii) of this section blank.

(i) Indicate the date of the court finding.

(ii) Indicate the name of the Indian tribe(s) that the court found is the Indian child's tribe, if listed on the court order. If a name is not listed on the court order, the state title IV–E agency must indicate "no name listed."

(6) *Transfer to tribal court.* Indicate whether there is a court order that indicates that the Indian child's parent, Indian custodian, or Indian child's tribe requested, orally on the record or in writing, that the state court transfer the case to the tribal court of the Indian child's tribe, in accordance with 25 U.S.C. 1911(b), at any point during the report period. Indicate "yes" or "no." If the state title IV–E agency indicated "yes," then the state title IV–E agency must complete the data element in paragraph (i)(7) of this section. If the state title IV–E agency indicated "no," the state title IV–E agency must leave the data element in paragraph (i)(7) of this section blank.

(7) If the state court denied the request to transfer the case to tribal court, indicate whether there is a court order that indicates the reason(s) why the case was not transferred to the tribal court. Indicate "yes" or "no." If the title IV–E agency indicated "yes," then the title IV–E agency must indicate whether each reason in each paragraphs (i)(7)(i) through (iii) of this section is in the court order by indicating "yes" or "no." If the state title IV–E agency indicates "no," the title IV–E agency must leave the data elements in paragraphs (i)(7)(i) through (iii) of this section blank.

(i) Either of the parents objected to transferring the case to the tribal court.

(ii) The tribal court declined the transfer to the tribal court.

(iii) The state court found good cause not to transfer the case to the tribal court.

(8) *Notification.* (i) Indicate whether the Indian child's parent or Indian custodian was given legal notice more than 10 days prior to of the first child custody proceeding in accordance with 25 U.S.C. 1912(a). Indicate "yes" or "no."

(ii) Indicate whether the Indian child's tribe(s) was given legal notice more than 10 days prior to the first child custody proceeding in accordance with 25 U.S.C. 1912(a). Indicate "yes", "no" or "the child's Indian tribe is unknown."

(9) Indicate the name(s) of the Indian tribe(s) that were sent notice for a child custody proceeding as required in ICWA at 25 U.S.C. 1912(a).

(10) If the tribe(s) requested additional information, indicate whether the state title IV–E agency replied with the additional information that the Indian tribe(s) requested. If the tribe did not request additional information, indicate "does not apply." Otherwise, indicate "yes" or "no."

(11) *Active efforts to prevent removal and reunify with Indian family.* Indicate the date that the state title IV–E agency began making active efforts to prevent the breakup of the Indian family for the most recent removal reported in paragraph (d) of this section of the Indian child in accordance with 25 U.S.C. 1912(d).

(12) Indicate whether the court found, in a court order, that the state title IV–E agency made active efforts to prevent the breakup of the Indian family for the most recent removal reported in paragraph (d) of this section and that these efforts were unsuccessful in accordance with 25 U.S.C. 1912(d). Indicate "yes" or "no."

(13) Indicate the active efforts that the state title IV–E agency made to prevent the breakup of the Indian family in accordance with 25 U.S.C. 1912(d). Indicate "yes" or "no" for each paragraph (i)(13)(i) through (xi) and (xiii) of this section. Indicate "yes," "no" or "N/A" for paragraph (i)(13)(xii) of this section.

(i) Identify appropriate services to help the parent.

(ii) Actively assist the parent to obtain services.

(iii) Invite representatives of the Indian child's tribe to participate in the proceedings.

(iv) Complete a comprehensive assessment of the family.

(v) Focus on safe reunification as the goal for the Indian child.

(vi) Consult with extended family members to provide support for the Indian child.

(vii) Arrange for family interaction in most natural setting safely possible.

(viii) Monitor progress and participation in services to reunite the Indian family.

(ix) Consider alternative ways of addressing the needs of the Indian child's parent and extended family if services do not exist or are not available.

(x) Support regular visits and trial home visits consistent with ensuring the Indian child's safety.

(xi) Conduct or cause to be conducted a diligent search for the Indian child's extended family members for assistance and possible placement.

(xii) Keep siblings together.

(xiii) Other.

(14) *Removals.* Indicate "yes" or "no" for paragraphs (i)(14)(i) and (ii) of this section: (i) Indicate whether the court found by clear and convincing evidence, in a court order, that continued custody of the Indian child by the parent or Indian custodian was likely to result in serious emotional or physical damage to the Indian child in accordance with 25 U.S.C. 1912(e). (ii) Indicate whether the court finding reported for this paragraph (i)(14), indicates that the state court's finding was supported by the testimony of a qualified expert witness in accordance with 25 U.S.C. 1912(e).

(15) *Foster care and pre-adoptive placement preferences.* Indicate which foster care or pre-adoptive placements that meet the placement preferences of

ICWA in 25 U.S.C. 1915(b) were available to accept placement. Indicate in each paragraph (i)(15)(i) through (v) of this section "yes" or "no."

(i) A member of the Indian child's extended family.

(ii) A foster home licensed, approved, or specified by the Indian child's tribe.

(iii) An Indian foster home licensed or approved by an authorized non-Indian licensing authority.

(iv) An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(v) A placement that complies with the order of preference for foster care or pre-adoptive placements established by an Indian child's tribe, in accordance with 25 U.S.C. 1915(c).

(16) For the Indian child's current foster care or pre-adoptive placement as of the end of the report period per paragraph (e) of this section, indicate whether the placement meets the placement preferences of ICWA in 25 U.S.C. 1915(b) by indicating with whom the Indian child is placed. Indicate "a member of the Indian child's extended family," "a foster home licensed, approved, or specified by the Indian child's tribe," "an Indian foster home licensed or approved by an authorized non-Indian licensing authority," "an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs," "a placement that complies with the order of preference for foster care or pre-adoptive placements established by an Indian child's tribe, in accordance with 25 U.S.C. 1915(c)" or "none."

(17) If the placement preferences for foster care or pre-adoptive placements were not followed, indicate whether the court made a finding of good cause, on a court order, to place the Indian child with someone who is not listed in the placement preferences of ICWA in 25 U.S.C. 1915(b) or the placement preferences of the Indian child's tribe. Indicate "yes" or "no." If the state title IV–E agency indicated "yes," then the state title IV–E agency must complete the data element in paragraph (i)(18) of this section. If the state title IV–E agency indicated "no," then the state title IV–E agency must leave the data element in paragraph (i)(18) of this section blank.

(18) Indicate the state court's basis for the finding of good cause, as indicated on the court order, by indicating "yes" or "no" in each paragraph (i)(18)(i) through (v) of this section.

(i) Request of the biological parents.

(ii) Request of the Indian child.

(iii) The unavailability of a suitable placement that meets the placement preferences in ICWA at 25 U.S.C. 1915.

(iv) The extraordinary physical or emotional needs of the Indian child.

(v) Other.

(19) *Termination of parental rights.* Indicate whether the termination of parental or Indian custodian rights was voluntary or involuntary. Indicate "voluntary" or "involuntary." If the state title IV–E agency indicated "voluntary", the state title IV–E agency must leave the data elements in paragraphs (i)(20) and (21) of this section blank. If the state title IV–E agency indicated "involuntary", the state title IV–E agency must leave the data elements in paragraphs (i)(22) through (24) of this section blank.

(20) Indicate whether, prior to ordering an involuntary termination of parental rights, the state court found beyond a reasonable doubt, in a court order, that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child in accordance with 25 U.S.C. 1912(f). Indicate "yes" or "no."

(21) Indicate whether the court finding reported for paragraph (i)(20) of this section, indicates that the state court's finding was supported by the testimony of a qualified expert witness in accordance with 25 U.S.C. 1912(f). Indicate "yes" or "no."

(22) If voluntary, indicate whether there is a court order that indicates that the voluntary consent to termination for the biological or adoptive mother was made in writing and recorded in the presence of a judge in accordance with 25 U.S.C. 1913. Indicate "yes," "no," or "does not apply" if the mother is deceased.

(23) If voluntary, indicate whether there is a court order that indicates that the voluntary consent to termination for the biological or adoptive father was made in writing and recorded in the presence of a judge in accordance with 25 U.S.C. 1913. Indicate "yes," "no" or "does not apply" if the father is deceased.

(24) If voluntary, indicate whether there is a court order that indicates that the voluntary consent to termination for the Indian custodian was made in writing and recorded in the presence of a judge in accordance with 25 U.S.C. 1913. Indicate "yes," "no" or "does not apply" if there is no Indian custodian.

(25) *Adoption proceedings.* Indicate whether the Indian child exited foster care to adoption per paragraph (g) of this section. Indicate "yes" or "no." If the state title IV–E agency indicated "yes," the state title IV–E agency must complete the data element in paragraphs (i)(26) through (29) of this section. If the state title IV–E agency indicated "no," the state title IV–E agency must leave the data element in paragraphs (i)(26) through (29) of this section blank.

(26) Indicate which adoptive placements that meet the placement preferences in ICWA at 25 U.S.C. 1915(a) were willing to accept placement. Indicate in each paragraphs (i)(26)(i) through (iv) of this section "yes" or "no."

(i) A member of the Indian child's extended family.

(ii) Other members of the Indian child's tribe.

(iii) Other Indian families.

(iv) A placement that complies with the order of preference for foster care or pre-adoptive placements established by an Indian child's tribe, in accordance with 25 U.S.C. 1915(c).

(27) Indicate whether the placement reported in paragraph (h) of this section meets the placement preferences of ICWA in 25 U.S.C. 1915(a) by indicating with whom the Indian child is placed. Indicate "a member of the Indian child's extended family," "other members of the Indian child's tribe," "other Indian families," "a placement that complies with the order of preference for foster care or pre-adoptive placements established by an Indian child's tribe, in accordance with 25 U.S.C. 1915(c)," or "none."

(28) If the placement preferences for adoption were not followed, indicate whether the court made a finding of good cause, on a court order, to place the Indian child with someone who is not listed in the placement preferences of ICWA in 25 U.S.C. 1915(a) or the placement preferences of the Indian child's tribe. Indicate "yes" or "no." If the state title IV–E agency indicated "yes," then the state title IV–E agency must complete the data element in paragraph (i)(29) of this section. If the state title IV–E agency indicated "no," then the state title IV–E agency must leave the data element in paragraph (i)(29) of this section blank.

(29) Indicate whether there is a court order that indicates the court's basis for the finding of good cause, by indicating "yes" or "no" in each paragraph (i)(29)(i) through (v) of this section.

(i) Request of the biological parents.

(ii) Request of the Indian child.

(iii) The unavailability of a suitable placement that meets the placement preferences in ICWA at 25 U.S.C. 1915.

(iv) The extraordinary physical or emotional needs of the Indian child.

(v) Other.

[FR Doc. 2016–07920 Filed 4–5–16; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R9–ES–2012–0039; 4500030115]

RIN 1018–AY39

Endangered and Threatened Wildlife and Plants; Listing the Scarlet Macaw

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Revised proposed rule; reopening of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), notify the public that, based on new information, we are making changes to our proposed rule of July 6, 2012, to list as endangered the northern subspecies of scarlet macaw (*Ara macao cyanoptera*) and the northern distinct vertebrate population segment (DPS) of the southern subspecies (*A. m. macao*). We are also reopening the comment period. Comments previously submitted will be considered and do not need to be resubmitted. However, we invite comments on the new information presented in this document relevant to our consideration of the changes described below. We encourage those who may have commented previously to submit additional comments, if appropriate, in light of this new information.

DATES: The comment period for the proposed rule published July 6, 2012 (77 FR 40222) is reopened. We will accept comments received on or before June 6, 2016. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow instructions for submitting comments to Docket No. FWS–R9–ES–2012–0039.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: [FWS–R9–ES–2012–0039]; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, Falls Church, VA 22041.

We will not accept email or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Janine Van Norman, Chief, Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS:ES, Falls Church, VA 22041; telephone 703–358–2171; facsimile 703–358–1735. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: Under the provisions of the Endangered Species Act, as amended (ESA or Act), based on new information and information overlooked in the development of our July 6, 2012 (77 FR 40222), proposed rule (“2012 Proposed Rule”), we are: (1) Revising the location of what we consider to be the boundary between the two subspecies of *A. macao;* (2) providing additional information on the species in northeast Costa Rica, southeast Nicaragua, and Panama, and reevaluating the status of *A. m. cyanoptera;* (3) providing additional information on the northern DPS of *A. m. macao,* reevaluating the status of this DPS, and revising our proposed listing of this DPS from endangered status to threatened status; (4) adding a proposal to treat the southern DPS of *A. m. macao* and subspecies crosses (*A. m. macao* and *A. m. cyanoptera*) as threatened based on similarity of appearance to *A. m. cyanoptera* and to the northern DPS of *A. m. macao;* and (5) adding a proposed rule pursuant to section 4(d) of the Act to define the prohibitions and exceptions that apply to scarlet macaws listed as threatened.

Public Comments

Our intent is to use the best available scientific and commercial data as the foundation for all endangered and threatened species classification decisions. Further, we want any final rule resulting from this proposal to be as effective as possible. Therefore, we invite range countries, tribal and governmental agencies, the scientific community, industry, and other interested parties to submit comments regarding our 2012 Proposed Rule and the changes we present in this revised proposed rule. Comments should be as specific as possible.

Before issuing a final rule to implement this proposed action, we will take into account all comments and any additional information we receive. Comments previously submitted will be considered and do not need to be resubmitted. Such communications may lead to a final rule that differs from our proposal. For example, new information provided may lead to a threatened status instead of an endangered status, an endangered status instead of a threatened status, or we may determine the entity may not warrant listing based on new information. Additionally, new information may lead to revisions to the proposed 4(d) rule and/or our proposed similarity of appearance finding. All comments, including commenters' names and addresses, if provided to us, will become part of the administrative record.

You may submit your comments and materials concerning our changes to the proposed rule by one of the methods listed in **ADDRESSES.** Comments must be submitted to *http://www.regulations.gov* before 11:59 p.m. (Eastern Time) on the date specified in **DATES.**

We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If you provide personal identifying information in your comment, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Headquarters Office (see **FOR FURTHER INFORMATION CONTACT**).

Information Requested

We intend that any final actions resulting from this revised proposed rule will be based on the best scientific and commercial data available. Therefore, we request comments or information from other concerned governmental agencies, the scientific community, or any other interested parties concerning this revised proposed rule. We particularly seek clarifying information concerning:

(1) New information on taxonomy, distribution, habitat selection and trends, diet, and population abundance and trends specific to the northern DPS of *A. m. macao* and the northwest Columbia population.

(2) Information on the effects of habitat loss and changing land uses on the distribution and abundance of this species in northwest Colombia.

(3) Additional information pertaining to the northwest Colombia population, including any information on whether this population constitutes an SPR of the northern DPS of *A. m. macao.*

Additionally, we invite range countries, tribal and governmental agencies, the scientific community, industry, and other interested parties to submit comments regarding the revisions to our 2012 Proposed Rule as follows:

(4) Revision of the status of the northern DPS of *Ara macao macao* from endangered to threatened;

(5) Addition of the proposed similarity of appearance listing of the for the southern DPS of *A. m. macao* and subspecies crosses (*A. m. macao* and *A. m. cyanoptera*);

(6) Our 2012 Proposed Rule pursuant to section 4(d) of the Act that define the prohibitions and exceptions that apply to scarlet macaws listed as threatened and, unless a permit for otherwise prohibited activities is obtained under 50 CFR 17.52, to scarlet macaw subspecies crosses and the southern DPS of *A. m. macao* treated as threatened under the similarity-of-appearance provisions of the Act.

Please include sufficient information with your submission (such as full references) to allow us to verify any scientific or commercial information you include. Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made "solely on the basis of the best scientific and commercial data available."

Comment Period Extension

During the public comment period for our 2012 Proposed Rule, we received several requests from the public for extension of the comment period. For this reason, and because we are amending our 2012 Proposed Rule, we are reopening the comment period on this proposed rule for 60 days.

Requests for Separate Listing of Captive Macaws

During the public comment period, several commenters requested that the Service list the captive populations of the scarlet macaw in the United States by either (1) listing them as a distinct population segment (DPS), or (2) assigning them a separate listing status. In similar situations involving the agency's response to petitions to list all chimpanzees as endangered under the Endangered Species Act of 1973, as amended (Act or ESA) (78 FR 35201, June 12, 2013) and to delist U.S. Captive Populations of the Scimitar-horned Oryx, Dama Gazelle, and Addax (78 FR 33790, June 5, 2013), we have considered the appropriateness of assigning captive-held animals a separate legal status from their wild counterparts on the basis of their captive state, including through designation as a DPS. For the same reasons stated in those previous actions, we find that it would not be appropriate to differentiate the legal status of captive-held animals of scarlet macaw from those in the wild. We find that the ESA does not allow for captive-held animals to be assigned separate legal status from their wild counterparts on the basis of their captive state, including through designation as a DPS. In analyzing threats to a species, we focus our analyses on threats acting upon wild specimens, generally those within the native range of the species, because the goal of the Act is survival and recovery of endangered and threatened species and the ecosystems on which they depend. For more information, see our 12-month findings on a petition to delist three antelope species (78 FR 33790; June 5, 2013) and a petition to list chimpanzees (78 FR 35201; June 12, 2013).

Proposed Rule Under Section 4(d) of the Act

During the public comment period of the 2012 Proposed Rule, several commenters requested we propose a rule under section 4(d) of the Act addressing interstate commerce of scarlet macaws. See Proposed 4(d) Rule below.

Previous Federal Actions

On July 6, 2012, we published in the **Federal Register** a combined 12-month finding and proposed rule on a petition to list the scarlet macaw as threatened or endangered under the Act (77 FR 40222). In that proposed rule, we proposed listing the northern subspecies of scarlet macaw, *Ara macao cyanoptera,* found in Mexico, Guatemala, Honduras, and Nicaragua, as endangered. We identified two DPSs of the southern subspecies: the northern DPS of *A. m. macao,* found in Costa Rica, Panama, and northern Columbia, and the southern DPS of *A. m. macao,* found in southern Columbia, Venezuela, Guyana, Suriname, French Guyana, Brazil, Ecuador, Peru, and Bolivia. We proposed listing the northern DPS of *A. m. macao* as endangered, and determined that listing the southern DPS of *A. m. macao* as endangered or threatened was not warranted. The 2012 Proposed Rule had a 60-day comment period, ending September 4, 2012. We received no requests for a public hearing on the 2012 Proposed Rule; therefore, no public hearings were held.

Substantive Changes to the Proposed Rule

Based on new information, some received from peer reviewers, we are proposing to make five substantive changes to our 2012 Proposed Rule. Specifically, we are: (1) Revising the location of what we consider to be the boundary between the northern subspecies, *A. m. cyanoptera,* and the northern DPS of the southern subspecies, *A. m. macao;* (2) providing additional information on *A. m. cyanoptera* in northeast Costa Rica, southeast Nicaragua, and Panama, and reevaluating the status of the subspecies; (3) providing additional information on the northern DPS of *A. m. macao,* reevaluating the status of this DPS, and revising our proposed listing of this DPS from endangered status to threatened status; (4) adding a proposal to treat the southern DPS of *A. m. macao* and subspecies crosses (*A. m. cyanoptera* and *A. m. macao*) as threatened based on similarity of appearance to *A. m. cyanoptera* and to the northern DPS of *A. m. macao;* and (5) adding a proposal under section 4(d) of the Act to define activities that are necessary and advisable for the conservation of scarlet macaws listed as threatened and crosses of the two scarlet macaw subspecies. See Figure 1, below, for a visual representation of these revisions. In this document, we focus our discussion on information we received that could potentially change our status determination for one or more of the entities evaluated in our proposed rule. For additional information on the biology and status of scarlet macaws, see our July 6, 2012, 12-month finding and proposed rule (77 FR 40222). In our final rule, we will address other comments and information, such as information we received that supports or clarifies information contained in our 2012 Proposed Rule.

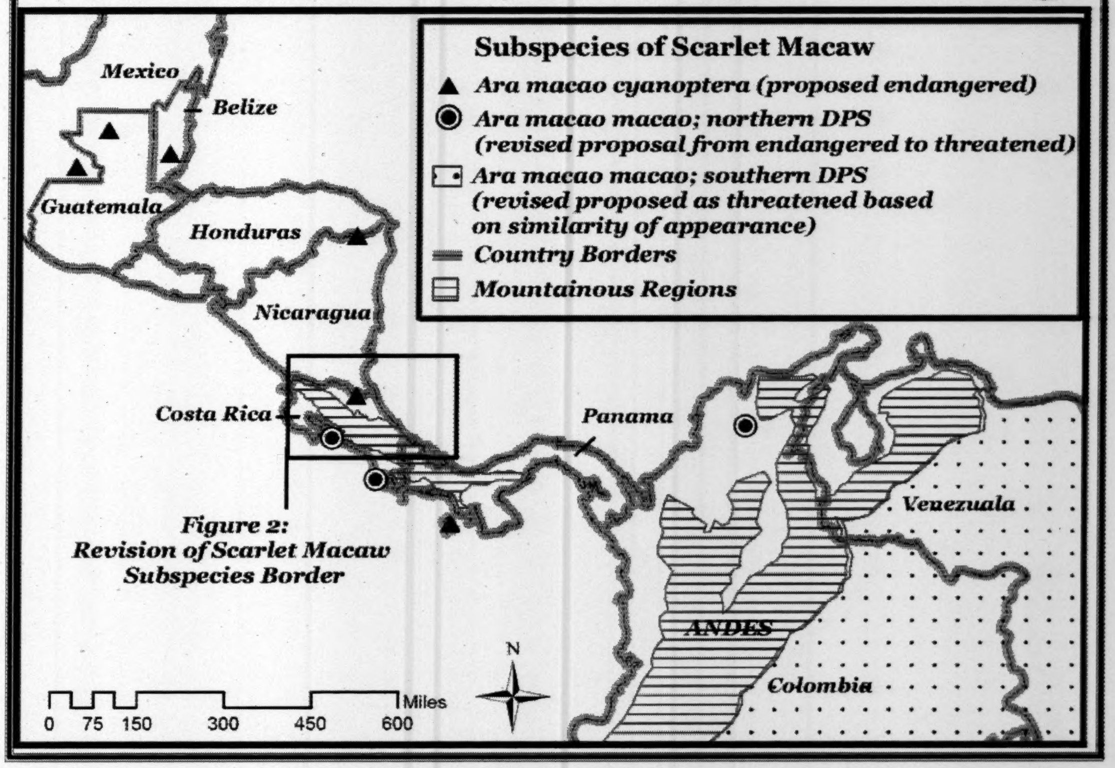


Figure 1:
Proposed Listing of Scarlet Macaw Subspecies
Revision of Subspecies Boundary

Subspecies of Scarlet Macaw
▲ Ara macao cyanoptera (proposed endangered)
◉ Ara macao macao; northern DPS (revised proposal from endangered to threatened)
Ara macao macao; southern DPS (revised proposed as threatened based on similarity of appearance)
Country Borders
▤ Mountainous Regions
Mexico
Belize
Guatemala
Honduras
Nicaragua
Costa Rica
Panama
Venezuala
ANDES
Colombia
Figure 2: Revision of Scarlet Macaw Subspecies Border
N
0 75 150 300 450 600 Miles

1. Consideration of Scarlet Macaws in the Pet Trade

In analyzing the status of the scarlet macaw, we consider to what extent, if any, captive individuals contribute to the viability of the species within its native range in the wild. Many scarlet macaws are held as pets or captive bred for the pet trade. It has been suggested that scarlet macaws captive-bred for the pet trade contribute to the conservation of the species in the wild by reducing demand on wild populations for pets and, therefore, the number of individuals poached from the wild (Fischer 2004, entire). However, the effect of legal wildlife trade on market demand and wild populations is a complex phenomenon influenced by a variety of factors (Bulte and Damania 2005, entire; Fischer 2004, entire) and we are not aware of any evidence indicating that scarlet macaws captive-bred for the pet trade currently benefit wild populations.

It has also been suggested that pet scarlet macaws and scarlet macaws captive-bred for the pet trade provide a safety net for the species by potentially providing a source of birds for reintroduction to the wild. However, pet scarlet macaws are poor candidates for re-introduction programs because those bred for the pet trade are bred with little regard for genetics and include an unknown number of subspecies crosses (Schmidt 2013, pp. 74–75), pets socialized with humans fail to act appropriately with wild individuals when released, and individuals held as pets may pose a disease risk to wild populations (Brightsmith et al 2005, p. 471). We are not aware of any evidence indicating that release of pet or pet-trade scarlet macaws benefit wild populations. For additional information regarding our evaluation of reintroduction efforts, see *Reintroduction Efforts* (under Additional Information on Subspecies *A. m. cyanoptera* and Additional Information on the Northern DPS of *A. m. macao,* below).

As indicated above, we are not aware of any information indicating that scarlet macaws held as pets or captive-bred for the pet trade contribute to the conservation of the species in the wild. Therefore, we do not consider them further in our assessment of species status, except when assigning status to subspecies crosses (see *7. Adding a proposal to treat the Southern DPS of A. m. macao and Interspecific Crosses as Threatened Based on Similarity of Appearance*).

2. Revising the Boundary Between Subspecies and Reaffirming DPSs

Revising the Boundary Between *A. m. cyanoptera* and *A. m. macao*

In our 2012 Proposed Rule, we considered the boundary of the subspecies *A. m. cyanoptera* and *A. m. macao* to be the general border region of Costa Rica and Nicaragua, based on information from Wiedenfeld (1994, entire) and Schmidt and Amato (2008, pp. 135–138). Brightsmith (2012, *http://www.regulations.gov:* Docket number FWS–R9–ES–2012–0039 #0066) provided additional information on scarlet macaws in northeast Costa Rica, but stated that it was unknown whether these birds belong to the subspecies *A.*

m. cyanoptera or *A. m. macao.* However, Schmidt (2013, entire) provides new range-wide genetic information on the species. Consequently, we reexamined information on the distribution of the two scarlet macaw subspecies.

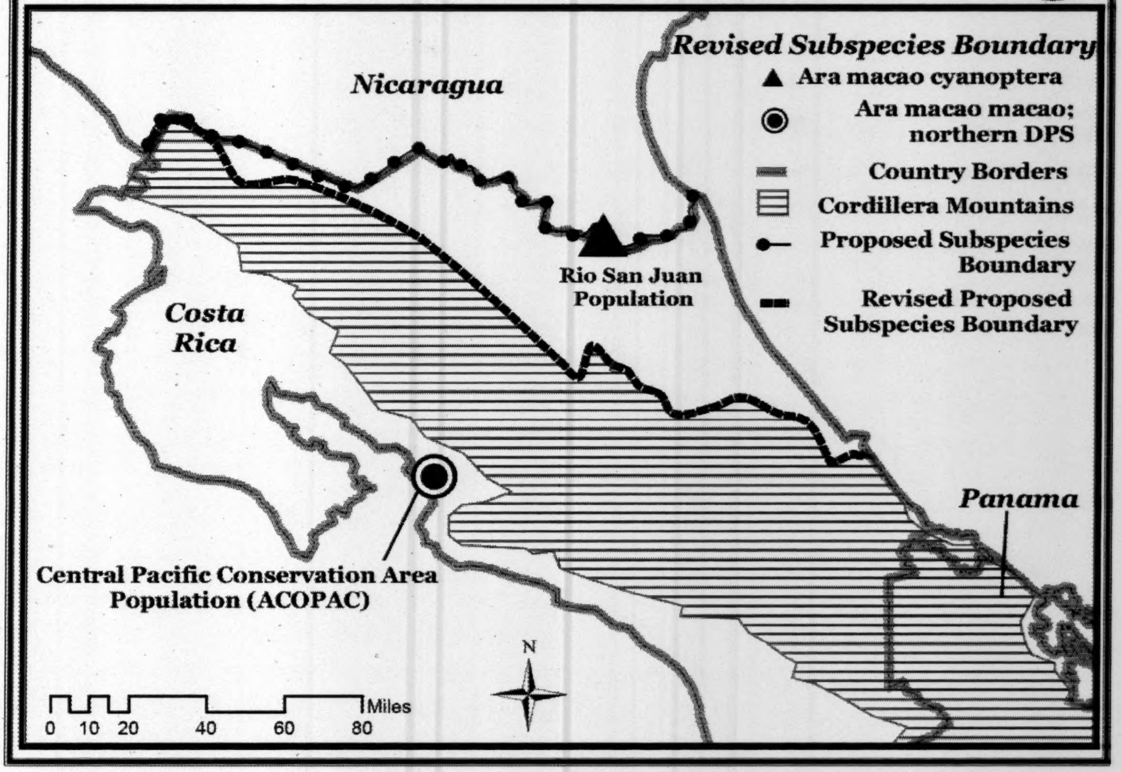
As indicated in our proposed rule, morphological evidence presented by Wiedenfeld (1994, entire) suggests southern Nicaragua and northern Costa Rica represent a transition zone between scarlet macaw subspecies. However, according to Schmidt (2013, p. 52), distribution of mitochondrial DNA haplotypes shows a general pattern of geographic segregation rather than co-occurrence; *cyanoptera* and *macao* lineages segregate at the central highlands of Costa Rica and patterns within the mitochondrial data argue against hybridization between the subspecies. Based on an evaluation of the specimens analyzed by Wiedenfeld, Schmidt (2013, pp. 55–56) indicates that although Wiedenfeld observed a cline in morphological traits across scarlet macaw populations in lower Central America, limited and potentially biased sampling may have exaggerated the degree of phenotypic differentiation Wiedenfeld observed.

In addition to a pattern of geographic separation on the mainland, Schmidt (2013, pp. 69–73) found that genetic results from Isla Coiba (off the Pacific coast of Panama) are inconsistent with the broader phylogeographic patterns of diversity in the species. Four of five specimens from Isla Coiba carry a mitochondrial DNA haplotype characteristic of *A. m. cyanoptera,* whereas only one carries the expected haplogroup characteristic of *A. m. macao.* Schmidt discusses possible reasons for this inconsistency including the possibility that the origin of the four specimens were mislabeled or that Isla Coiba represents a biogeographic anomaly. According to Schmidt, one of the aberrant *cyanoptera* specimens (collected by Witmore) should be considered reliable and Schmidt's genetic results suggest the other three aberrant *cyanoptera* specimens (collected by Batty) were collected from the same location as the Witmore specimen. Based on an assessment by Olson (2008, in Schmidt 2013, pp. 71–72) of the collection trips made by Batty in the Veragua Archipelago, Schmidt concludes that the specimen carrying the *A. macao macao* haplotype likely originated on mainland Panama. Thus, Schmidt's results suggest that Isla Coiba represents a biogeographic anomaly, *i.e.* that scarlet macaws on the island carry a *cyanoptera* haplotype rather than the expected *macao* haplotype.

Schmidt (2013) represents the only spatial analysis of scarlet macaw genetic variation across the historical geographic range of the species, and we consider Schmidt to be the best available information on subspecies range. Based on the results of Schmidt, the mainland Central America boundary between *A. m. cyanoptera* and *A. m. macao,* is the central mountain range of Costa Rica, with *A. m. cyanoptera* found on the Atlantic (eastern) slope of the country and *A. m. macao* on the Pacific (western) slope. In addition, scarlet macaws on Isla Coiba are likely to be the subspecies *A. m. cyanoptera.* Therefore, in the absence of new information indicating otherwise, for the purposes of this rule, we now consider scarlet macaws in Mexico, Guatemala, Nicaragua, Honduras, the eastern (Caribbean) slope of Costa Rica, and Isla Coiba, Panama to be *A. m. cyanoptera.* Consequently, we consider new information provided on scarlet macaws in northeast Costa Rica and on Isla Coiba to pertain to the subspecies *A. m. cyanoptera.* Consistent with the mainland boundary revision, we consider birds on the western slope of Costa Rica and southward through the remainder of the species' range to be *A. m. macao.*

In sum, in this revised proposed rule, we revise what we consider to be the boundary between the two subspecies of scarlet macaw, from the previously proposed boundary in the general border region of Costa Rica and Nicaragua, to the revised boundary of the central highlands of Costa Rica (See Figure 2, below, for a visual representation of the revised proposed boundary between the two subspecies), with an anomalous population of *A. m. cyanoptera* on Isla Coiba.

Figure 2:
Revision of Scarlet Macaw Subspecies Boundary


Revised Subspecies Boundary
▲ Ara macao cyanoptera
◉ Ara macao macao; northern DPS
Country Borders
Cordillera Mountains
Proposed Subspecies Boundary
Revised Proposed Subspecies Boundary
Nicaragua
Costa Rica
Panama
Rio San Juan Population
Central Pacific Conservation Area Population (ACOPAC)
N
0 10 20 40 60 80 Miles

Reaffirming A. m. macao DPSs

In our 2012 Proposed Rule, we determined that listing the whole southern subspecies, *A. m. macao,* was not warranted under the ESA. As a result of this finding, we then considered whether any population segment within the subspecies constituted a DPS based on our 1996 DPS policy (see 61 FR 4722–4725, February 7, 1996). In our proposed rule, we determined that two population segments of *A. m. macao* met our definitions of a DPS (*See* Northern DPS of *A. m. macao:* Distinct Population Segment, and Southern DPS of *A. m. macao:* Distinct Population Segment, *below*): *A. m. macao* north and west of the Andes (scarlet macaws in Costa Rica, Panama, and northwest Colombia), and *A. m. macao* south and east of the Andes (scarlet macaws in southeast Colombia and the remainder of the species' range in South America). During the public comment period, we received no additional information regarding our conclusion that the Andes represented the boundary between the two population segments or our conclusions that they were valid DPSs based on our DPS policy. Further, the results of Schmidt (2013, pp. 61–62) reaffirm genetic segregation of the two DPSs at the Andes. Therefore, the boundary between the two *A. m. macao* DPSs, and the range of the southern DPS, remains unchanged from that described in our 2012 Proposed Rule (See Figure 1 for a visual representation of the border between the northern and southern DPS of *A. m. macao*).

In this revised proposed rule, we reaffirm our previous DPS determinations. Although the area considered to be the northern DPS of *A. m. macao* has changed slightly due to the exclusion of northeast Costa Rica and Isla Coiba (Panama) from the DPS, on re-examination of our July 6, 2012 DPS analysis, we conclude that our previous analysis remains valid despite the slight boundary change because (1) both DPSs are discrete as a result of genetic and geographic separation at the Andes, and (2) both DPSs are also significant, because the loss of either would result in a significant gap in the subspecies' range as described in the DPS analysis in our proposed rule. Therefore, both are valid DPSs based on our DPS policy.

3. Additional Information on Subspecies A. m. cyanoptera

Eastern Costa Rica-Nicaragua Border

We received additional information from a peer reviewer and obtained additional information from literature on scarlet macaws in the eastern border region of Costa Rica and Nicaragua. The eastern border between the two countries follows the Rio San Juan (San Juan River), which separates southeast Nicaragua and northeast Costa Rica. Below we summarize additional information on scarlet macaws in this region.

Distribution and Trend

Anecdotal evidence on scarlet macaws in northeast Costa Rica obtained during several years of research on great green macaws (*Ara ambigua*) indicates that scarlet macaws in this region are increasing in number (Monge *et al.* 2012, p. 6, citing Chassot and Monge 2004, and Penard *et al.* in prep; Brightsmith 2012, *http://www.regulations.gov:* Docket number FWS–R9–ES–012–0039 #0066). In 2004, Chassot and Monge (2004, pp. 12–13) reported several groups of scarlet macaws in the Rio San Carlos area close to the eastern border with Nicaragua, in what is now designated as Maquenque National Wildlife Refuge (Refugio Nacional de Vida Silvestre mixto Maquenque). These included three groups numbering 18, 12, and 8 individuals. One of these groups was observed flying from Nicaragua over the Rio San Juan into Costa Rica, indicating the population's range includes forest on both sides of the border. According to Chassot and Monge (2004, pp. 12–13), many observations of scarlet macaws had been made during previous years of research on the great green macaw in this region, but never of as large a number of individuals.

In our 2012 Proposed Rule, we reported an estimate of 48–54 scarlet macaws in Maquenque National Wildlife Refuge in northeast Costa Rica based on McReynolds (2011 *in litt.*) citing Penard *et al.* (2008). However, according to a peer reviewer, this estimate is incorrect. The peer reviewer states that, as a result of the study's methodology, a population estimate cannot be obtained from the data. The peer reviewer indicates that, during the study in question, researchers detected 30 groups of scarlet macaws and only 12 groups of great green macaws in 733 kilometers (km) (455 miles) of transects, with as many as 16 different individual scarlet macaws seen on a single transect. The peer reviewer suggests that, given that transect studies are poor at detecting rare species and *A. macao* detections outnumbered those of *A. ambigua* in the heart of the latter species' Costa Rican range, the population of *A. macao* in this region may number well over 100 birds. The peer reviewer also states that multiple groups of three or four, likely representing adults with juveniles, were detected. Finally, the peer reviewer indicates that the species has recently expanded its range southward to La Selva Biological Station (approximately 35–40 km (15–18 miles) south of the Rio San Juan). According to the peer reviewer, the species was absent from the Station since it was established in the 1960s (D. McClearn and others as reported to Brightsmith, in Brightsmith 2012, *http://www.regulations.gov:* Docket number FWS–R9–ES–2012–0039 #0066), but has been observed breeding on adjacent land since the mid-2000s.

During the 2009 macaw breeding season, Monge *et al.* (2012, entire) conducted an intensive search for scarlet macaw nests in northeast Costa Rica and southeast Nicaragua as part of a larger study to quantify and characterize nests of both scarlet macaw and great green macaw. Monge *et al.* (2012, p. 9) found 6 scarlet macaw nests (5 in Costa Rica, 1 in Nicaragua).

Threats

Information pertaining to the scarlet macaw in relation to the five factors provided in section 4(a)(1) of the Act is discussed below. In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat and we then attempt to determine if that factor rises to the level of a threat, meaning that it may drive or contribute to the risk of extinction of the species such that the species warrants listing as an endangered or threatened species as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively is not sufficient to compel a finding that listing is appropriate; we require evidence that these factors are operative threats that act on the species to the point that the species meets the definition of an endangered or threatened species under the Act.

As indicated in our 2012 Proposed Rule, one of the main threats to neotropical parrot species is loss of forest habitat. In northeast Costa Rica, Landsat TM satellite images from 1987, 1998, and 2005 showed a fragmented landscape with remnants of natural ecosystems. The annual rate of total deforestation was 0.88 percent for the 1987–1998 period and 0.73 percent for the 1998–2005 period, even considering recovery of secondary forest (Chassot *et al.* 2010, p. 37); this equates to a 15 percent decrease in total forest habitat from 1987 to 2005. More recently, Fagan *et al.* (2013, unpaginated) tracked agricultural expansion from 1986 to 2011 in the region and found a small net gain in forest cover overall after Costa Rica enacted a ban on forest clearing in 1996. However, scarlet macaws require substantial nesting cavities for reproduction; these types of cavities are most often located in older, larger trees which are found mostly in mature forested habitats. The authors found that the rate of mature forest loss decreased from 2.2 percent pre-ban to 1.2 percent post-ban. Although the ban seems to have successfully contributed towards reducing the loss of mature forest, the expansion of cropland into areas outside of mature forest, specifically into pastures and secondary forests, have decreased the reforestation rates. Ultimately, this reduces the total amount of forest habitat available to the species (Fagan *et al.* 2013, unpaginated).

Deforestation is also ongoing in southeast Nicaragua. Southeast Nicaragua comprises the IMBR and its buffer zone. The reserve covers 306,980 ha (758,560 acres) (Chassot & Monge 2012, p. 63) and is one of Nicaragua's best preserved forested areas (Ravnborg *et al.* 2006, p. 2). However, the reserve is threatened by the growing human population in or around the reserve, a result of the continuous arrival of families from other parts of the country into the region in search of cheap land (Ravnborg 2010, pp. 12–13; Ravnborg *et al.* 2006, pp. 4–5). Ravnborg (2010, p. 10) reports that between 1998 and 2005 the population increased more than 100 percent (from 9,717 to 19,864 individuals) in the municipality of El Castillo, which is composed entirely of IMBR buffer zone and core area. According to Fundacion del Rio and the International Union for Conservation of Nature (IUCN) (2011, p. 12), the municipality has an annual population growth rate of 3.9 percent. The expansion of African palm plantations, pasture lands, human settlements, and logging have contributed to an estimated 60 percent deforestation of the buffer zones surrounding IMBP and these activities are expanding in the reserve (Fundacion del Rio & IUCN 2011, pp. 7–8; Ravnborg 2010, pp. 12–13; Nygren 2010, pp. 193–194; Ravnborg *et al.* 2006, p. 2). Thus, despite the existence of this protected area, deforestation continues to occur and is a serious threat to biodiversity in this region (Fundacion del Rio 2012a, pp. 2–3; Fundacion del Rio 2012b, pp. 2–3; Fundacion del Rio & IUCN 2011, pp. 34, 37, 73–74; Chassot *et al.* 2006, p. 84).

Forest conservation efforts are ongoing in the Costa Rica–Nicaragua border region, particularly within Costa Rica's 60,000-hectare (148,263-ac) San Juan–La Selva Biological Corridor (Chassot & Monge 2012, entire). Although these efforts have resulted in lower deforestation rates within the

Corridor (Chassot & Monge 2012, p. 67, citing Chassot *et al.* 2010a), both primary and regrowth forest within the Corridor and within the larger border region of northeast Costa Rica and southeast Nicaragua continue to be threatened by timber extraction, and agricultural expansion (Fagan *et al.* 2013, unpaginated; Chassot & Monge 2012, p. 63; Chassot & Monge 2011, p. 1; Chassot *et al.* 2009, p. 9).

As indicated in our 2012 Proposed Rule, another main threat to neotropical parrot species, in general, is capture for the pet trade. Little information exists on the level of poaching of scarlet macaws in this region. However, poaching is recognized as a significant threat to the species in Nicaragua (77 FR 40235, July 6, 2012). In Nicaragua, capture of parrots for the pet trade is described as common, with scarlet macaws one of the most preferred species (77 FR 40235, July 6, 2012), and scarlet macaws are identified as one of the species most affected by illegal trafficking along the Rio San Juan (Castellón 2008, p. 27). In Costa Rica, poaching is known to occur at both of the other two populations in the country and is believed to be occurring at an unsustainable level in the Área de Conservación del Pacífico Central (Central Pacific Conservation Area (ACOPAC)) (77 FR 40235–40236, July 6, 2012). Therefore, it is reasonable to conclude that poaching of scarlet macaws occurs in the population on the eastern border between these two countries, though the extent is unknown.

Isla Coiba

In our 2012 Proposed Rule, we determined ongoing threats to the Isla Coiba, Panama population to be deforestation, poaching, and small population size in combination with other threats. We were not aware of any regulatory mechanisms addressing these threats; therefore, we concluded that the existing regulatory mechanisms were inadequate to protect the species. Based on comments from a peer reviewer, we obtained additional information on this population from additional experts and literature sources. Below we summarize this information.

Distribution and Trend

In our 2012 Proposed Rule, we indicated that there were an estimated 100 scarlet macaws on Isla Coiba (Keller and Schmitt 2008). This estimate is based upon information obtained by Keller and Schmitt during discussions with biologists that worked on Coiba (Keller 2012, *in litt.*). McReynolds estimated fewer than 200 scarlet macaws in Panama (77 FR 40227, July 6, 2012), with most of these on Isla Coiba. Angehr (2012, *in litt.*), in response to our inquiry regarding the reasonableness of Coiba estimates, indicates that 100–200 is a reasonable estimate for the number of scarlet macaws on Coiba. He further states that there is no reason to believe the population is currently declining.

Threats

In our 2012 Proposed Rule, we indicated that some level of deforestation was occurring on Isla Coiba as a result of trampling and erosion caused by feral cattle (77 FR 40231, July 6, 2012). New information indicates that cattle on Coiba may be inhibiting the regrowth of former pasture to secondary forest, but are probably not having a significant impact on the larger forest trees on which *A. m. macao* depends (Angehr 2012, *in litt.*). Therefore, it is unlikely that cattle are currently a threat to the forest resources on which scarlet macaws depend on the island. As indicated in our proposed rule, cattle on Coiba are increasing in number and causing at least some level of deforestation and soil erosion via trampling. As a result, in the absence of natural or anthropogenic control measures, it is possible that, with increasing numbers, the feral cattle on Isla Coiba may move beyond current pasture areas into established forest and become a threat to scarlet macaw habitat at some time in the future. However, we are unaware of any information that indicates whether or when, and to what extent, such an outcome might occur.

In our 2012 Proposed Rule, we indicated that Coiba National Park and its Special Zone of Marine Protection was inscribed on the World Heritage List as of 2005. In the 2014 Mission Report by the World Heritage Committee and IUCN, the Committee makes note to acknowledge that the Country of Panama has a strategy and is making progress in the removal of livestock from the property. The report indicates that the country has made a commitment to have all livestock removed by the end of 2014 (Douvere & Herrera 2014, unpaginated). However, we are not aware of any information indicating that the removal of cattle has occurred.

In our 2012 Proposed Rule, we indicated that poaching likely occurs at some level in Panama and that, because the current population is extremely small and isolated, even low levels of poaching would likely have a negative effect on the species in Panama. According to Angehr (2012) and Keller (2012), Panama's Autoridad Nacional del Ambiente (National Environmental Authority) maintains a ranger station on the north end of the island, but patrols elsewhere on the island are probably limited. Keller (2012) indicates that *A. macao* primarily occurs on the south end of the island and that poaching "is a strong possibility." However, Angehr (2012) indicates that, while macaws may occasionally be illegally captured on the island, he is not aware that such take is currently a major threat.

Reintroduction Efforts

Additional information indicates that a recent program in Mexico is working to establish a viable population of *A. m. cyanoptera* for recovery purposes in Palenque, Mexico, by releasing captive-bred scarlet macaws into the wild (Estrada 2014, entire). Releases of captive scarlet macaws could potentially aid in recolonization of the macaw population's original range, to the extent that the habitat within that range remains suitable. Conversely, releases of captive scarlet macaws could potentially pose a threat to wild populations by exposing wild birds to diseases for which wild populations have no resistance, invoking behavioral changes in wild macaws that negatively affect their survival, or compromising the genetic integrity of wild populations (Dear *et al.* 2010, p. 20; Schmidt 2013, pp. 74–75; also see IUCN 2013, pp. 15–17). In response to an increasing number of reintroduction projects involving various species worldwide, the IUCN Species Survival Commission published guidelines for reintroductions to help ensure that reintroduction efforts achieve intended conservation benefits and do not cause adverse side-effects of greater impact (IUCN/SSC 2013, entire; IUCN/SSC 1998, entire). Additionally, White *et al.* (2012, entire) make recommendations specific to parrot reintroductions. According to Estrada (2014, p. 345), the program in Palenque, Mexico was designed to align as closely as possible to the IUCN guidelines and the recommendations made by White *et al.* So far, the program shows promise for establishing a viable population of *A. m. cyanoptera*—96 scarlet macaws were released between April 2013 and June 2014 with a 91% survival rate as of May 2015. In addition, 9 nesting events and successful use of wild foods by released birds have been observed. However, while this program shows promise for reintroduction efforts towards the establishment of viable populations in the future, it is currently uncertain as to whether this captive-release program has resulted in conservation benefits to the species at present (IUCN/SSC 2013, entire; IUCN/SSC 1998, entire).

4. Reevaluation of Status of A. m. cyanoptera

In our 2012 Proposed Rule, we determined that *A. m. cyanoptera* is in danger of extinction based on threats to the subspecies in Mexico, Guatemala, Belize, Honduras, and Nicaragua. We indicated that *A. m. cyanoptera* occurs in only a few small, isolated populations, and that deforestation and forest degradation, capture for the pet trade, and small population size in combination with the cumulative effects of other threats pose significant threats to *A. m. cyanoptera* throughout the subspecies' range in these countries such that *A. m. cyanoptera* is in danger of extinction. We determined that the existing regulatory mechanisms were not adequate to remove or reduce these threats. In the 2012 Proposed Rule, we identified four primary populations in this region, one each in southeast Mexico, northern Guatemala, and southwest Belize (hereafter collectively referred to as the Maya Forest region), and one in the Mosquitia region of Honduras and Nicaragua. As a result of new information we received and obtained on scarlet macaws in the eastern border region of Costa Rica and Nicaragua, and our subsequent revision of the border between the two subspecies of scarlet macaw such that we now consider the birds in this border region and on Isla Coiba to be *A. m. cyanoptera,* we now reevaluate the status of *A. m. cyanoptera.*

Threats acting on *A. m. cyanoptera* throughout most of the subspecies' range (Mexico, Guatemala, Honduras, Belize, and Nicaragua) are severe and immediate (77 FR 40229–40242, July 6, 2012). While anecdotal observations suggest the population in the eastern border region of Costa Rica and Nicaragua has increased in recent years and the population on Isla Coiba is currently stable, both populations appear to be isolated and the regions in which they occur represent an extremely small fraction of the subspecies' current range. In addition, deforestation in the region in which the Costa Rica-Nicaragua border population occurs is ongoing. Although scarlet macaws are tolerant of some level of habitat fragmentation or modification, provided sufficient large trees remain for nesting and feeding requirements, several studies indicate the species occurs in disturbed or secondary forest at lower densities (for a summary of these studies, see 77 FR 40224, 40225, July 6, 2012). Thus, it is reasonable to conclude that the extent of increase in the population in this region will likely be limited due to past and ongoing deforestation in the region. Further, while the population on Isla Coiba is not currently being negatively impacted by loss of habitat and may or may not be negatively impacted by poaching, the population is very small and isolated (Ridgely 1981, p. 253; McReynolds 2011, *in litt.*). As indicated in our 2012 Proposed Rule, small, isolated populations are vulnerable to extinction due to a variety of factors, including loss of genetic variability, inbreeding depression, and demographic and environmental stochasticity (77 FR 40239–40240, July 6, 2012; Gilpin & Soule 1986, entire).

Subspecies estimates for each of the *A. m. cyanoptera* populations are included in Table 1.

TABLE 1—ARA MACAO CYANOPTERA POPULATION ESTIMATES

Population range	Population name	Population estimates	Literature cited
Southeast Mexico	Usamacinto–Southeast Mexico	< 200 breeding pairs.	Inigo–Elias 1996, pp. 96–97; Garcia *et al.* 2008, pp. 52–53.
Guatemala	Northern Peten	150–250	McNab 2008, p. 7; Wildlife Conservation Society Guatemala 2005, in McReynolds 2011, *in litt.;* Garcia *et al.* 2008, pp. 52–53.
Belize	Chiquibul	60–219	McReynolds 2011, *in litt.;* Garcia *et al.* 2008, pp. 52–53; Schmidt and Amato 2008, p. 137.
Eastern Honduras, Northeastern Nicaragua.	Mosquitia	Honduras: 1,000–1,500; Nicaragua: 100–700.	Wiedenfeld 1994, pp. 101–102; Lezama 2010, in McReynolds 2011, *in litt.;* Feria and de los Monteros 2007, in McReynolds 2011, *in litt.*
Southeast Nicaragua Border and Northeast Costa Rica.	Rio San Juan (San Juan–La Selva/San Juan–El Castillo).	possibly >100	Brightsmith 2012, *in litt.*
Isla Coiba, Panama	Coiba	100–200	Keller 2012, *in litt.;* Angehr 2012, *in litt.;* McReynolds 2011, *in litt.*

Finding for the Northern Subspecies A. m. cyanoptera

As discussed in our 2012 Proposed Rule, we conclude that the low numbers of this subspecies throughout its range, the extreme fragmentation of its habitat and population throughout its range, and the substantial threats acting on this subspecies throughout its range place this subspecies in danger of extinction. Therefore, we reaffirm our July 6, 2012, finding (77 FR 40222) that *A. m. cyanoptera* is in danger of extinction in its entirety.

5. Additional Information on the Northern DPS of A. m. macao

In our 2012 Proposed Rule, we determined the northern DPS of *A. m. macao* to be in danger of extinction (endangered). We based our determination of the status of this DPS on the status of the birds in Panama and Costa Rica due to the lack of information on the species in northwest Colombia. We determined ongoing threats to what we then considered the three remaining known populations of *A. m. macao* within the DPS (those at ACOPAC, Costa Rica; Area de Conservación de Osa (Osa Conservation Area) (ACOSA), Costa Rica; and Isla Coiba, Panama) to be poaching, and small population size in combination with other threats (ACOPAC, ACOSA, and Isla Coiba). We determined that the existing regulatory mechanisms were not adequate to remove or reduce these threats. We also determined deforestation to be a threat to the species on Isla Coiba, Panama. We received two peer reviews of our proposal. Although one peer reviewer agreed with our determination, the other questioned our determination to list the northern DPS of *A. m. macao* as endangered, and also provided additional information on the species.

We also obtained additional information on scarlet macaw status and threats in this DPS from additional experts and literature sources. As indicated above, based on new information, we revised the area of this DPS such that scarlet macaws in the Isla Coiba population of Panama are no longer considered part of this DPS. Below we summarize the additional information on what we now consider the northern DPS of *A. m. macao,* as explained in *Revising the Border Between A. m. cyanoptera and A. m. macao,* above.

Central Pacific Costa Rica

The Central Pacific Costa Rica (ACOPAC) population numbers approximately 450 birds. According to a peer reviewer, the population at ACOPAC has been variably increasing and declining but is not in drastic decline according to the work by Vaughan et al. (2005). As indicated in our 2012 Proposed Rule, Vaughan (2005, p. 127) describes an increase in the previously declining ACOPAC population after implementation of intensive anti-poaching efforts in 1995 and 1996, but also indicates that neither these efforts nor the increasing trend of the macaw population was sustained. Rather, counts of macaws remained almost constant from 1996 to 2003. As indicated in our 2012 Proposed Rule, poaching of wildlife is reported to occur in the area and scarlet macaws are susceptible to overharvest due to their demographic traits and naturally low rate of reproduction (77 FR 40235–40236, July 6, 2012). However, Vaughan indicates that the population was stable even with the level of poaching during that time. As a result, we specifically request information on the current trend of the ACOPAC scarlet macaw population.

South Pacific Costa Rica

We received two pieces of anecdotal information on the South Pacific Costa Rica (ACOSA) scarlet macaw population. One peer reviewer states that land owners along the south Pacific coast have informed him that scarlet macaws are being seen more commonly north of the Osa Peninsula, and it seems as though the species may be spreading north through this region. In addition, one commenter states that dozens can be seen on a daily basis on his property at the north end of the Gulfo Dulce, where 10 years ago, none existed.

In our 2012 Proposed Rule, we stated that, "In ACOSA, Dear *et al.* (2010, p. 10) indicate that 85 percent of residents interviewed in 2005 believed scarlet macaws were more abundant than 5 years prior, which suggests this population may be increasing." However, as pointed out by a peer reviewer, we failed to consider this study in our finding. For the purposes of reevaluating our July 6, 2012, finding on this DPS, we provide additional information from Dear *et al.* (2010, entire) below.

In 2005, Dear *et al.* conducted interviews with 105 residents, representing 30 areas within ACOSA. Based on answers to a series of questions, scarlet macaws were found to occur throughout the Osa Peninsula, with the northern limit of the population occurring outside the peninsula in Playa Piñuelas. The southern mainland limit was Chacarita (about 15 km (roughly 9 miles) north of Golfito), in ACOSA. Estimates of the population's size ranged from 800 to 1,200 individuals, and interviewees generally believed that the numbers were increasing. Of 105 interviews, 89 (85%) believed that scarlet macaws were more abundant than 5 years prior, 12 interviewees (11%) considered the population had remained stable, and 4 (4%) thought there were fewer scarlet macaws. Dear *et al.* (2010, pp. 17, 20) state that both (1) the ACOSA population has increased and (2) that the population "is currently stable with the distribution thought to be increasing."

Dear *et al.* (2010, p. 19) states that although it is believed that poaching still exists in the region, results suggest incidence of chick poaching has decreased. Approximately half (48%) of those interviewed by Dear *et al.* believed that macaws were still being poached in ACOSA, and the others stated the activity did not currently occur (52%). Additionally, 43 percent of the interviewees mentioned that less poaching activity is occurring now than before, and none said the activity had increased. Based on interviews and information from park guards, Dear *et al.* estimate 25–50 chicks are poached each year. Dear *et al.* also state that, although results suggest incidence of chick poaching has decreased, the activity still occurs.

Northwest Colombia

Distribution and Trend

Hilty and Brown (1986, p. 200) describe the range of scarlet macaw in northwest Colombia as the northern lowlands from eastern Cartagena to the low Magdalena Valley, southward to southeast Córdoba, and the middle Magdalena Valley southwest of Santander. The range in northwest Colombia includes the tropical zone of the Caribbean region, and the inter-Andean valleys, the largest of which are the Magdalena and Cuaca River valleys (Salaman *et al.* 2009, p. 21).

We are not aware of any estimates of the numbers of scarlet macaws in northwest Colombia. The species is reported as probably close to extinction in the Magdalena Valley, Cuaca Valley, and north (Donegan 2013, *in litt.;* Ellery 2013, *in litt.;* McMullen 2010, p. 60). The species is reported to occur in the more remote and inaccessible western part of the region, but its status in this area is not clear. A 2009 scientific expedition in the Manso River Forest and Tigre River floodplain forest within Parque Nacional Natural Paramillo (PNN Paramillo), reported scarlet macaws as present. A 2004 study of the perceptions and uses of wild fauna by the Embera-Katios (Katios) indigenous communities in the San Jorge River Valley within the buffer zone of PNN Paramillo, reported that the Katios categorized the species as abundant (Racero *et al.* 2008, p. 124). However, the authors note that these indigenous communities recognize only 25 species of birds (Racero *et al.* 2008, p. 127), that the richness of the avifauna in this area is likely greater, and that they (the authors) did not verify the identification of scarlet macaws in the study area. As a result, given that the study site is also within the range of the red and green macaw (*Ara chloropterus*), which is similar in appearance to the scarlet macaw (Iñigo-Elias 2010, unpaginated), some portion of the macaws characterized as abundant by the Katios could have been red and green macaws.

Threats

Scarlet macaws in northwest Colombia are believed to be affected primarily by habitat loss, and to a lesser extent trade (Donegan 2013, *in litt.*). Loss of forest habitat in northwest Colombia has been extensive over the past several decades. The Magdalena and Caribbean regions have approximately only 7 percent and 23 percent (respectively) of their land area in original vegetation, with the remainder converted primarily to grazing land (79% and 68%, respectively) (Etter *et al.* 2006, p. 376). The Magdalena region lost 40 percent of its forest cover between 1970 and 1990, and an additional 15 percent between 1990 and 1996 (Restrepo & Syvitski 2006, pp. 69, 72). Within the Caribbean region, Miller *et al.* (2004) reports that PNN Paramillo (460,000 ha (1,136,680 ac)), Santuario de Fauna y Flora Los Colorados (Los Colorados Fauna and Flora Sanctuary) (1,000 ha (2,500 ac)), and Reserva Forestal de Montes de Maria (Montes Maria Forest Reserve)

(7,460 ha (18,500 ac)) have lost 42, 71, and 70 percent of their forest, respectively, since they were created in the late 1970s and early 1980s.

Deforestation is ongoing in northwest Colombia (Colombia Gold Report 2012, pp. 1–2; Ortega & Lagos 2011, pp. 81–82). A few large tracts of forest remain within the range of the scarlet macaw in this region, and all are deforestation hotspots (Ortega & Lagos 2011, p. 82; Salaman *et al.* 2009, p. 21). Forest loss in the region is due primarily to conversion of land to pasture and agriculture, but also mining, illicit crops, and logging (Ortega & Lagos 2011, pp. 85–86). Further, resource management in Colombia is highly decentralized, and governmental institutions responsible for oversight appear to be inconsistent throughout the country (Blaser *et al.* 2011, pp. 292–293). The International Tropical Timber Organization considers the Colombian forestry sector to be lacking in law enforcement and on-the-ground control of forest resources, with no specific standards for large-scale forestry production, no forestry concession policies, and a lack of transparency in the application of the various laws regulating wildlife and their habitats (Blaser *et al.* 2011, pp. 292–298). Consequently, there is currently no effective vehicle for overall coordination of species management for multijurisdictional species such as macaws. Therefore, we conclude that deforestation is a significant threat to the species in this region.

Regarding trade, parrots and macaws in the buffer zone of PNN Paramillo are often captured by settlers for the regional illegal markets (Racero 2008, pp. 127–128). We are unaware of any other information indicating that capture of scarlet macaws for the pet trade may be a threat to the species in northwest Colombia.

Reintroduction Efforts

According to Dear *et al.* (2010, pp. 15–17), three scarlet macaw captive-release programs are located on the mainland coast of Southern Pacific Costa Rica, 15 to 20 km (9 to 12 miles) across the Gulf (Golfo Dulce) from the Osa Peninsula and its wild population of scarlet macaws. These include Santuario Silvestre de Osa (SSO) and Zoo Ave, which release birds in the Golfito area, and Amogos de las Aves, which releases birds at Punta Banco (Dear *et al.* 2010, pp. 15, 17; Forbes 2005, p. 97). SSO receives macaws confiscated from poachers in the area, and releases them in the area surrounding the sanctuary. The others receive macaws from all parts of Costa Rica and normally release only offspring of these confiscated birds, though Zoo Ave released five confiscated macaws. Macaws from the 3 facilities began to be released in 1997 and totaled 77 birds—9 released in Punta Banco and 68 in the Golfito area (Dear *et al.* 2010, p. 16). According to Dear *et al.* (2010, p. 16), of the 77 released birds, 67 are still alive.

The range of birds released at Punta Banco has grown to reach 84 square km (32 square miles) (Dear *et al.* 2010, p. 17, citing Forbes 2005). According to Dear *et al.* 2010, (p. 19), the destiny of scarlet macaws released in the Golfito area is unknown, but wild and reintroduced populations could be mixing. They further indicate that reintroduction programs could be either an advantage or disadvantage for the natural population (see *Additional Information on Subspecies A. m. cyanoptera—Reintroduction Efforts*). According to the authors, releases could potentially aid in recolonization of the macaw population's original range, to the extent that the habitat within that range remains suitable. However, if wild and released macaws are in contact, diseases could be passed to the wild population that may have no resistance to these diseases. Further, macaws accustomed to humans could invoke behavioral changes in native scarlet macaws. For instance, scarlet macaws allowing humans to approach closely could facilitate the capture of adults.

We are not aware of any information indicating that these three captive-release programs adhere to the IUCN Species Survival Commission guidelines for re-introductions, published by IUCN to help ensure that re-introduction efforts achieve intended conservation benefits and do not cause adverse side-effects of greater impact (IUCN/SSC 2013, entire; IUCN/SSC 1998, entire). Nor are we aware that these reintroduction programs adhere to recommendations of White *et al.* (2012, entire) for the reintroduction of parrots. Therefore, because we are unaware of information indicating that these captive-release programs are contributing to either the recovery or endangerment of the DPS, we do not consider these programs or the birds in these programs to be consequential in evaluating the status of this DPS.

6. Reevaluation of Status of the Northern DPS of A. m. macao

In our 2012 Proposed Rule, we determined the northern DPS of *A. m. macao* to be in danger of extinction ("endangered"). We based our determination of status of this DPS on the status of the birds in Panama (on Isla Coiba) and Costa Rica (in ACOPAC and ACOSA) due to the lack of information on the species in northwest Colombia. We determined ongoing threats to the three remaining populations in Costa Rica and Panama to be: deforestation (Isla Coiba), poaching, and small population size in combination with other threats. We found that the existing regulatory mechanisms were inadequate in addressing these threats.

Based on our revision of the border between *A. m. cyanoptera* and *A. m. macao*, the northern DPS of *A. m. macao* no longer includes the scarlet macaw population on Isla Coiba. The DPS consists of two known viable scarlet macaw populations in Costa Rica, an unknown number of birds in northwest Colombia, an isolated group of 10–25 birds in Palo Verde in northwest Costa Rica (Dear *et al.* 2010, p. 8), and a few groups of captive-released birds in a few locations within the Costa Rica portion of the DPS (Dear *et al.* 2010, p. 8; Forbes 2005, entire; Brightsmith *et al.* 2005, entire). As indicated in our 2012 Proposed Rule, the Palo Verde group is extremely small, and we are unaware of any information suggesting that this group represents a self-sustaining, viable population.

As indicated in our 2012 Proposed Rule and this revised proposed rule, *A. m. macao* has been extirpated from mainland Panama and much of its former range in Costa Rica, and the species has been all but extirpated from large areas of northwest Colombia. Its remaining distribution is highly fragmented, consisting of two isolated populations (ACOPAC and ACOSA) and an unknown number of birds isolated in northwest Colombia.

The ACOPAC scarlet macaw population numbers approximately 450 birds. As indicated above and in our 2012 Proposed Rule, poaching of wildlife is reported to occur in this area. Scarlet macaws are one of the most susceptible species to poaching due to the species' slow rate of reproduction. However, the population was holding steady even with the amount of poaching occurring during that time (Vaughan 2005, p. 127). This apparent stability of the population indicates that poaching may not currently be major threats to this population. However, we specifically seek additional information on the status of this population.

The most recent estimate of the ACOSA population, based on interviews with community members, is about 800–1,200 birds. Although the majority of residents interviewed indicated that there appeared to be more macaws in the year 2005 than in the 5 years previous (the year 2000), these results are based on perceptions of scarlet macaw abundance at two points in time over a limited time period (2000 versus 2005). Thus, although scarlet macaws appeared to be more abundant in 2005 than in 2000, whether this conclusion reflects an increasing population trend is unknown. For this reason, we consider the results of Dear *et al.* to indicate that the ACOSA scarlet macaw population is currently stable and that the distribution is increasing (Dear *et al.* 2010, p. 20). Although poaching of scarlet macaw chicks is known to occur in the region, the apparent stability of the population suggests poaching is not currently having a negative impact.

The number of scarlet macaws in northwest Colombia is unknown, but habitat loss has caused the decline of the species there, such that the species has been all but extirpated from large areas in the region. Much of northwest Colombia has been deforested. Large tracts of forest remain, for instance, in the areas of Serrania de San Lucas and PNN Paramillo. However, deforestation in the region is expected to continue. According to Gonzales *et al.* (2011, p. 45), the Caribbean region of northwest Colombia showed the highest projected rate of change of forest cover for the year 2030 of all regions evaluated. Because deforestation has resulted in the near extirpation of the species from large areas of northwest Colombia and deforestation is projected to continue within the species' range in this region, it is reasonable to conclude that deforestation is a significant threat to the species in northwest Colombia. Table 2 includes the most recent estimated population densities for the northern DPS of *A. m. macao.*

TABLE 2—ARA MACAO MACAO (NORTHERN DPS) POPULATION ESTIMATES

Population range	Population name	Population estimates	Literature cited
Costa Rica	Costa Rica's Central Pacific Conservation Area (ACOPAC).	~450	Arias *et al.* 2008, in McReynolds 2011, *in litt.*
Costa Rica	Costa Rica's Osa Conservation Area (ACOSA).	800–1,200	Dear et al. 2005 and Guzman 2008, in McReynolds 2011, *in litt.*
Northwest Colombia	Northwest Colombia	~unknown~	Donegan 2013, *in litt.;* Ellery 2013, *in litt.;* McMullen 2010, p. 60.

Finding for the Northern DPS of A. m. macao

The Act defines "endangered" as "any species which is in danger of extinction throughout all or a significant portion of its range" and "threatened" as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." In our 2012 Proposed Rule, we determined the northern DPS of *A. m. macao* to be in danger of extinction ("endangered"). However, new information indicates that the ACOPAC population is currently stable, and that the ACOSA population—the largest of the DPS— is currently stable or possibly increasing. New information indicates that poaching does not currently act as a threat on these two populations. Therefore, as the two largest populations within the DPS are currently stable, it is reasonable to conclude that the northern DPS of *A. m. macao* is not currently in danger of extinction. The best available information indicates that the population in northwest Colombia faces significant ongoing threats and may be potentially extirpated from Colombia. If this population is lost, the DPS would contain only two scarlet macaw populations. However, although no current population estimates are available for northwest Colombia, this region is reported to have large tracts of forest suitable for supporting a population which may provide sufficient resiliency and redundancy for the DPS. If, during the public comment period, we receive additional information on the northern DPS of scarlet macaw (*A. m. macao*) and/or on the northwest Colombia population indicating that listing the DPS rangewide is not warranted, then we may consider whether the Colombia population constitutes a significant portion of the range (SPR) of the DPS and would, at that time, determine whether the DPS warrants a threatened or endangered status. We encourage the public to provide us with any additional information pertaining to this population, including any information on whether this population constitutes an SPR of the DPS. Although the ACOPAC and ACOSA populations are considered stable, both are small and isolated, and their range represents only a portion of the range of the DPS. Therefore, although the two largest populations currently appear to be stable and may be increasing, we find that the best available information indicates that current threats to scarlet macaws in northwest Colombia (deforestation), and the small and isolated status of the ACOPAC and ACOSA populations, place this DPS in danger of extinction in the foreseeable future. Therefore, we revise our July 6, 2012, proposal of listing the northern DPS of the *A. m. macao* from "endangered" to "threatened" in accordance with the definitions of each as they pertain to the Act.

7. Treating the Southern DPS of A. m. macao and Subspecies Crossings (A. m. macao and A. m. cyanoptera) as Threatened Under 4(e) Similarity of Appearance Provisions

In our 2012 Proposed Rule, we determined that the scarlet macaws (*A. m. macao*) south and east of the Andes (northern South America), constituted a valid DPS of the subspecies A. m. macao pursuant to our 1996 DPS Policy (77 FR 40222, 40242, July 6, 2012) (*See Revising the Border Between Subspecies and Reaffirming DPSs: Reaffirming A. m. macao DPSs above*). Additionally, we determined that listing the southern DPS of *A. m. macao* throughout its range was not warranted. During the public comment period, we received no additional information indicating that threats on this DPS have elevated to the point that it would warrant an endangered or threatened listing.

However, in our 2012 Proposed Rule, we discussed a potential listing of the southern DPS of *A. m. macao* and subspecies crossings based on the similarity of appearance provisions of the Act and requested information regarding scarlet macaw morphological differences that may provide a mechanism for distinguishing between the listed entities and the non-listed entities. During the public comment period, we received additional information supporting a similarity of appearance listing for the southern DPS of *A. m. macao* and scarlet macaw subspecies crossing (crosses between *A. m. cyanoptera* and *A. m. macao*).

Standard

Section 4(e) of the Act authorizes the treatment of a species, subspecies, or distinct population segment as endangered or threatened if: "(a) such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species; (b) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and (c) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this Act." All applicable prohibitions and exceptions for species treated as threatened under section 4(e) of the Act due to similarity of appearance to a threatened or endangered species will be set forth in a rule proposed under section 4(d) of the Act.

Analysis

In our 2012 Proposed Rule, we requested information regarding scarlet macaw morphological differences that may provide a mechanism for distinguishing between the listed entities and the non-listed entities. During the public comment period, we received information on several factors which make differentiating between scarlet macaw listable entities difficult. First, the scarlet macaw subspecies, *Ara macao macao* and *Ara macao cyanoptera*, primarily differ in the coloration of their wing coverts (a type of feather) and wing size. However, these differences are not always apparent, especially in birds from the middle of the species' range (which may include crosses between *A. m. cyanoptera* and *A. m. macao*), making it difficult or impossible to visually differentiate between subspecies (Schmitt 2011 *pers. comm.;* Weidenfeld 1994, pp. 99–100). According to information received from the Service's Forensics Laboratory, many scarlet macaw remains submitted for examination by Office of Law Enforcement special agents and wildlife inspectors do not consist of intact carcasses; rather, evidence is usually in the form of partial remains, detached feathers, and artwork incorporating their feathers. Therefore, identification of subspecies and/or the geographic origin of these birds arehighly improbable without genetic analysis, which would add considerable difficulties and cost for law enforcement. Second, we are not aware of any information indicating that distinguishing morphological differences between the northern and southern DPS of *A. m. macao* would allow for visual identification of the origin of a bird of this subspecies. Lastly, many commenters noted that aviculturists have bred the species without regard for taxa, resulting in crosses of the two subspecies (*A. m. cyanoptera* and *A. m. macao*) that maintain a combination of characteristics of either parent, being present in trade (Wiedenfeld 1994, p. 103). As a result, the similarity of appearance between the unlisted southern DPS of *A. m. macao* and subspecies crosses to the listed northern DPS of *A. m. macao* and *A. m . cyanoptera* may result in the ability to pass off a protected specimen as the unlisted DPS or unlisted subspecies cross and poses an additional threat to the Northern DPS and *A.m. cyanoptera*. Therefore, we consider this difficulty in discerning the unlisted DPS and unlisted subspecies crosses from the listed Northern DPS and *A.m. cyanoptera* as an additional threat to the listed entities.

Thus, this close resemblance between the listed entities and the unlisted entities makes differentiating the scarlet macaw entities proposed for listing (the subspecies *A. m. cyanoptera* and the northern DPS of the subspecies *A. m. macao*) from those that are not proposed for listing (individuals of the southern DPS of *A. m. macao* and subspecies crossings (*A. m. cyanoptera* and *A. m. macao*)) difficult for law enforcement, making it difficult for law enforcement to enforce and further the provisions and policies of the Act.

We determine that treating the southern DPS of *A. m. macao* and subspecies crosses (*A. m. cyanoptera* and *A. m. macao*) under the 4(e) similarity of appearance provisions under the Act will substantially facilitate law enforcement actions to protect and conserve scarlet macaws. If the southern DPS of *A. m. macao* or subspecies crosses (*A. m. cyanoptera* and *A. m. macao*) were not listed, importers/exporters could inadvertently or purposefully misrepresent a specimen of *A. m. cyanoptera* or the northern DPS of *A. m. macao* as a specimen of the unlisted entity, creating a loophole in enforcing the Act's protections for listed species of scarlet macaw. The listing will facilitate Federal and state law-enforcement efforts to curtail unauthorized import and trade in *A. m. cyanoptera* or the northern DPS of *A. m. macao*. Extending the prohibitions of the Act to the similar entities through this listing of those entities due to similarity of appearance under section 4(e) of the Act and providing applicable prohibitions and exceptions in a rule issued under section 4(d) of the Act will provide greater protection to *A. m. cyanoptera* and the northern DPS of *A. m. macao*. Additionally, although the 4(e) provisions of the Act do not contain criteria as to whether a species listed under the similarity of appearance provisions should be treated as endangered or threatened, we find that treating the southern DPS of *A. m. macao* and subspecies crosses (*A. m. cyanoptera* and *A. m. macao*) as threatened is appropriate because the 4(d) rule, for the reasons mentioned in our necessary and advisable finding, provides adequate protection for these entities. For these reasons, we are proposing to treat the southern DPS of *A. m. macao* and subspecies crosses (*A. m. cyanoptera* and *A. m. macao*) as threatened due to the similarity of appearance to *A. m. cyanoptera* and the northern DPS of *A. m. macao*, pursuant to section 4(e) of the Act.

Finding for the Southern DPS of A. m. macao and Subspecies Crossings

For the reasons discussed above, we propose to treat the southern DPS of *A. m. macao* and subspecies crosses (*A. m. cyanoptera* and *A. m. macao*) as threatened due to similarity of appearance to the endangered *A. m. cyanoptera* and the threatened northern DPS of *A. m. macao*, pursuant to section 4(e) of the Act.

8. Proposed 4(d) Rule

The ESA provides measures to prevent the loss of species and their habitats. Section 4 of the Act sets forth the procedures for adding species to the Lists of Endangered and Threatened Wildlife and Plants, and section 4(d) authorizes the Secretary of the Interior (Secretary) to extend to threatened species the prohibitions provided for endangered species under section 9 of the Act. Our implementing regulations for threatened wildlife, found at title 50 of the Code of Federal Regulations (CFR) in § 17.31, incorporate the ESA section 9 prohibitions for endangered wildlife, except when a species-specific rule under section 4(d) of the Act is promulgated. For threatened species, section 4(d) of the Act gives the Service discretion to specify the prohibitions and any exceptions to those prohibitions that are appropriate for the species, as well as include provisions that are necessary and advisable to provide for the conservation of the species. A rule issued under section 4(d) of the Act allows us to include provisions that are tailored to the specific conservation needs of that threatened species and which may be more or less restrictive than the general provisions at 50 CFR 17.31.

We are proposing a 4(d) rule that would apply to the southern subspecies of scarlet macaw (*A. m. macao)* and to crosses of the two scarlet macaw subspecies, *A. m. macao* and *A. m. cyanoptera*. We are including subspecies crosses in this rule because aviculturists have bred the species without regard to their taxa, resulting in crosses of the two subspecies being present in trade (Wiedenfeld 1994, p. 103). If the proposed 4(d) rule is adopted, all prohibitions of 50 CFR 17.31 will apply to *A. m. macao* and subspecies crosses of *A. m. macao* and *A. m. cyanoptera,* except that import and export of certain *A. m. macao* and scarlet macaw subspecies crosses into and from the United States and certain acts in interstate commerce will be allowed without a permit under the Act, as explained below. For activities otherwise prohibited under the 4(d) rule involving specimens of the southern DPS of the scarlet macaw and scarlet macaw subspecies crosses, such activities would require authorization pursuant to the similarity-of-appearance permit regulations at 50 CFR 17.52. If an applicant is unable to meet the issuance criteria for a similarity-of-appearance permit and demonstrate that the scarlet macaw in question is a subspecific cross or originated from the Southern DPS of the *A.m. macao,* authorization for an otherwise prohibited activity would need to be obtained under the general permit provisions for threatened species found at 50 CFR 17.32. For activities otherwise prohibited under the 4(d) rule involving specimen of the northern DPS of the scarlet macaw (*A. m. macao*), such activities would require authorization pursuant to the general permit provisions for threatened species found at 50 CFR 17.32.

Import and Export

The proposed 4(d) rule will apply to all commercial and noncommercial international shipments of live and dead southern subspecies of scarlet macaws and subspecific crosses of *A. m. macao* and *A. m. cyanoptera* and their parts and products, including the import and export of personal pets and research samples. In most instances, the proposed rule will adopt the existing conservation regulatory requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Wild Bird Conservation Act (WBCA) as the appropriate regulatory provisions for the import and export of certain scarlet macaws. The import into the United States and export from the United States of birds taken from the wild after the date this species is listed under the Act; conducting an activity that could take or incidentally take scarlet macaws; and certain activities in foreign commerce would require a permit under the Act. Permits may be issued to carry out otherwise prohibited activities involving endangered and threatened wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 for endangered species and § 17.32 for threatened species. With regard to endangered wildlife, a permit may be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. For threatened species, a permit may be issued for the same activities, as well as zoological exhibition, education, and special purposes consistent with the Act. Although the general permit provisions for threatened species are found at 50 CFR 17.32, the Service issues permits for otherwise prohibited activities involving endangered or threatened species treated as threatened due to similarity of appearance under the regulatory criteria at 50 CFR 17.52.

However, this proposed 4(d) rule would allow a person to import or export either: (1) A specimen held in captivity prior to the date this species is listed under the Act; or (2) a captive-bred specimen, without a permit issued under the Act, provided the export is authorized under CITES and the import is authorized under CITES and the WBCA. If a specimen was taken from the wild and held in captivity prior to the date this species is listed under the Act, the importer or exporter will need to provide documentation to support that status, such as a copy of the original CITES permit indicating when the bird was removed from the wild or museum specimen reports. For captive-bred birds, the importer would need to provide either a valid CITES export/re-export document issued by a foreign CITES Management Authority that indicates that the specimen was captive-bred by using a source code on the face of the permit of either “C,” “D,” or “F.” For exporters of captive-bred birds, a signed and dated statement from the breeder of the bird, along with documentation on the source of their breeding stock, would document the captive-bred status of U.S. birds.

The proposed 4(d) rule will apply to birds captive-bred in the United States and abroad. The terms “captive-bred” and “captivity’” used in this proposed rule are defined in the regulations at 50 CFR 17.3 and refer to wildlife produced in a controlled environment that is intensively manipulated by man from parents that mated or otherwise transferred gametes in captivity. Although the proposed 4(d) rule requires a permit under the Act to “take” (including harm and harass) a scarlet macaw, “take” does not include generally accepted animal-husbandry practices, breeding procedures, or provisions of veterinary care for confining, tranquilizing, or anesthetizing, when such practices, procedures, or provisions are not likely to result in injury to the wildlife when applied to captive wildlife.

We assessed the conservation needs of the scarlet macaw in light of the broad protections provided to the species under CITES and the WBCA. The scarlet macaw is listed in Appendix I of CITES, a treaty that contributes to the conservation of the species by monitoring international trade and ensuring that trade in Appendix-I species is not detrimental to the survival of the species. The purpose of the WBCA is to promote the conservation of exotic birds and to ensure that imports of exotic birds into the United States do not harm them. The best available data indicate that the current threat to the scarlet macaw stems mainly from illegal trade in the domestic markets of Central and South America (Weston and Memon 2009, pp. 77–80, citing several sources; Shanee 2012, pp. 4–9). Thus, the general prohibitions on import and export contained in 50 CFR 17.31, which extend only within the jurisdiction of the United States, would not regulate such activities. Accordingly we find that the import and export requirements of the proposed 4(d) rule provide the necessary and advisable conservation measures for this species.

Interstate Commerce

Under the proposed 4(d) rule, a person may deliver, receive, carry, transport, or ship *A. m. macao* and scarlet macaw subspecies crosses in interstate commerce in the course of a commercial activity, or sell or offer to sell in interstate commerce *A. m. macao* and scarlet macaw subspecies crosses without a permit under the Act. At the same time, the prohibitions on take under 50 CFR 17.31 would apply under this proposed rule, and any interstate commerce activities that could incidentally take *A. m. macao* and scarlet macaw subspecies crosses or otherwise prohibited acts in foreign commerce would require a permit under the Act. We have no information to suggest that current interstate commerce activities are associated with threats to the scarlet macaw or would negatively affect any efforts aimed at the recovery of wild populations of the species. Therefore, because interstate commerce within the United States has not been found to threaten the scarlet macaw, the species is otherwise protected in the course of interstate commercial activities under the take provisions and foreign commerce provisions contained in 50 CFR 17.31, and international trade of this species is regulated under CITES, we find this proposed rule contains all the prohibitions and authorizations necessary and advisable for the conservation of the scarlet macaw.

Required Determinations

Clarity of Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must: (1) Be logically organized; (2) Use the active voice to address readers directly; (3) Use clear language rather than jargon; (4) Be divided into short sections and sentences; and (5) Use lists and tables wherever possible. If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us page numbers and the names of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Paperwork Reduction Act (44 U.S.C. 3501, et seq.)

This proposed rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. This rulemaking will not impose new recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that we do not need to prepare an environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, in connection with regulations adopted under section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited in this proposed rule is available on the Internet at *http://www.regulations.gov* or by contacting the office listed in **FOR FURTHER INFORMATION CONTACT**.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Author

The primary author of this revised proposed rule is the staff of the Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 420, Arlington, VA 22203 (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to further amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as proposed to be amended on July 6, 2012, at 77 FR 40222, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245; unless otherwise noted.

■ 2. Amend § 17.11(h) by adding four entries for "Macaw, scarlet" to the List of Endangered and Threatened Wildlife in alphabetical order under Birds, to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
Birds							
*	*	*	*	*	*		*
Macaw, scarlet	Ara macao cyanoptera.	*Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama.*	*Entire*	*E*	....	*NA*	*NA*
Macaw, scarlet (Northern DPS).	Ara macao macao	*Bolivia, Brazil, Colombia, Costa Rica, Ecuador, French Guiana, Guyana, Panama, Peru, Suriname, Venezuela.*	*Colombia (northwest of the Andes), Costa Rica, Panama.*	*T*	....	*NA*	*17.41(c)*
Macaw, scarlet (Southern DPS).	Ara macao macao	*Bolivia, Brazil, Colombia, Costa Rica, Ecuador, French Guiana, Guyana, Panama, Peru, Suriname, Venezuela.*	*Bolivia, Brazil, Colombia (southeast of the Andes), Ecuador, French Guiana, Guyana, Peru, Suriname, Venezuela.*	*T(S/A)*	....	*NA*	*17.41(c)*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Macaw, scarlet (Subspecies crosses).	Ara macao macao x Ara macao cyanoptera.	*Costa Rica, Nicaragua.*	*Entire*	*T(S/A)*	....	*NA*	*17.41(c)*
*	*	*	*	*	*	*	

■ 3. Amend § 17.41 by revising paragraph (c) to read as follows:

§ 17.41 Special rules—birds.

* * * * *

(c) The following species in the parrot family: Salmon-crested cockatoo *(Cacatua moluccensis)*, yellow-billed parrot *(Amazona collaria)*, white cockatoo (*Cacatua alba)*, and scarlet macaw (*Ara macao macao* and scarlet macaw subspecies crosses (*Ara macao macao* and *Ara macao cyanoptera*)).

(1) Except as noted in paragraphs (c)(2) and (3) of this section, all prohibitions of § 17.31 of this part apply to these species.

(2) *Import and export.* You may import or export a specimen from the southern DPS of *Ara macao macao* and scarlet macaw subspecies crosses without a permit issued under § 17.52 of this part, and you may import or export all other specimen without a permit issued under § 17.32 of this part, only when the provisions of parts 13, 14, 15, and 23 of this chapter have been met and you meet the following requirements:

(i) *Captive-bred specimens:* The source code on the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) document accompanying the specimen must be "F" (captive born), "C" (bred in captivity), or "D" (bred in captivity for commercial purposes) (see 50 CFR 23.24); or

(ii) *Specimens held in captivity prior to certain dates:* You must provide documentation to demonstrate that the specimen was held in captivity prior to the applicable date specified in paragraph (c)(2)(ii)(A), (B), or (C) of this section. Such documentation may include copies of receipts, accession or veterinary records, CITES documents, or wildlife declaration forms, which must be dated prior to the specified dates.

(A) *For salmon-crested cockatoos:* January 18, 1990 (the date this species was transferred to CITES Appendix I).

(B) *For yellow-billed parrots:* April 11, 2013 (the date this species was listed under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*)).

(C) *For white cockatoos:* July 24, 2014 (the date this species was listed under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*)).

(D) *For scarlet macaws:* [*EFFECTIVE DATE OF THE FINAL RULE*] (the date this species was listed under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*)).

(3) *Interstate commerce.* Except where use after import is restricted under § 23.55 of this chapter, you may deliver, receive, carry, transport, or ship in interstate commerce and in the course of a commercial activity, or sell or offer to sell, in interstate commerce the species listed in this paragraph (c) without a permit under the Act.

Dated: March 24, 2016.

James W. Kurth

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2016–07492 Filed 4–6–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 160202068–6068–01]

RIN 0648–XE425

Fisheries of the Northeastern United States; Small-Mesh Multispecies Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: The purpose of this action is to modify the specifications for northern and southern red hake for fishing years 2016 and 2017. This action is necessary to implement the Council's recommended measures in response to updated scientific information. The proposed specifications are intended to help achieve sustainable yield and prevent overfishing.

DATES: Public comments must be received by April 22, 2016.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2016–0030, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0030*, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930–2276. Mark the outside of the envelope: "Comments on Red Hake Specifications."

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

New England Fishery Management Council staff prepared a Supplemental Information Report for the small-mesh multispecies specifications that describes the proposed action. The Council's document provides a discussion of the alternatives and the expected impacts. Copies of the specifications-related documents are available on request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. This document is also available from the following internet addresses: *www.greateratlantic.fisheries.noaa.gov/* or *www.nefmc.org.*

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978) 281–9218.

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council manages the small-mesh multispecies fishery primarily through a series of exemptions from the Northeast Multispecies Fishery Management Plan (FMP). The small-mesh multispecies fishery is composed of five stocks of three species of hakes (northern and southern silver hake, northern and southern red hake, and offshore hake). It is managed separately from the other stocks of groundfish such as cod, haddock, and flounders, primarily because the fishery uses small mesh and modified nets that do not generally result in the catch of these other stocks. Amendment 19 to the Northeast Multispecies FMP (April 4, 2013; 78 FR 20260) established a process and framework for setting the small-mesh multispecies catch specifications, as well as set the specifications for the 2012–2014 fishing years. On May 28, 2015, specifications for the 2015–2017 fishing years were published (80 FR 30379), based on stock assessment updates using data through the spring 2014 survey. These specifications were based on an update to the previously accepted stock assessment, using data through the 2014 Federal spring trawl survey. A stock assessment update was completed in 2015, using data through the 2015 spring survey. The 2015 update indicates that the northern red hake stock is increasing in biomass, while the southern stock is decreasing.

Proposed Measures

The purpose of this action is to modify the northern and southern red hake specifications for the 2016 and 2017 fishing years. The New England Fishery Management Council recommended these changes in response to its review of the most recent stock assessment update. A large year-class of northern red hake was identified in the 2013 Federal survey data. Because those fish were small at the time the 2015–2017 specifications were set, the impact to the specifications was minimal; however, the potential for a large increase in biomass during the middle of the specifications period was likely. The Council requested an update to the stock assessment in 2015 to monitor this year class and to adjust the specifications, if warranted.

As expected, the 2015 stock assessment update showed an increase in the northern red hake stock. The update also showed a decrease in the southern red hake stock; however, the reasons for the decline in the southern stock area are unclear.

In response to these changes, this rule proposes to increase the northern red hake and to decrease the southern red hake 2016 and 2017 annual catch limits and total allowable landings limits (Table 1), consistent with the stock assessment update and the Council's recommendation. The increase to the northern stock specifications will allow the fishery to benefit from this increase in biomass, as well as avoiding unnecessary discards by ensuring the possession limit is not reduced sooner than needed, while not substantially changing the already low risk of overfishing. The decrease in the southern stock specifications is necessary to reduce the risk of overfishing, even though recent landings are approximately 20 percent below the proposed revised specifications (Table 2).

TABLE 1—SUMMARY OF THE RED HAKE SPECIFICATIONS, IN METRIC TONS

	Northern Red Hake		Southern Red Hake	
	Existing	Proposed	Existing	Proposed
Overfishing Limit	331	556	3,400	1,816
Acceptable Biological Catch	287	496	3,179	1,717
Annual Catch Limit (ACL)	273	471	3,021	1,631
Total Allowable Landings (TAL)	104.2	120	1,309.4	746

TABLE 2—COMPARISON BETWEEN PROPOSED 2016–2017 RED HAKE SPECIFICATIONS AND 2014 CATCH AND LANDINGS, IN METRIC TONS

	Northern Red Hake	Southern Red Hake
Proposed ACL	471	1,631
2014 Catch	278	1,277
% of Proposed ACL	56%	74%
Proposed TAL	120	746
2014 Landings	74	603
% of Proposed TAL	62%	81%

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This action is exempt from review under E.O. 12866 because this action contains no implementing regulations.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The Council conducted an evaluation of the potential socioeconomic impacts of the proposed measures in conjunction with a supplemental information report. These analyses identified 1,007 unique fishing entities, 990 of which are considered small under current business standards, in the Greater Atlantic Region that could be affected by the proposed change. However, only 167 federally permitted vessels, all of which qualify as small entities under the Small Business Administration's small business standards, are expected to participate in the small-mesh fishery in the next two years. The proposed measures would modify the total allowable landings and catch limits consistent with recent scientific information. Under the proposed measures, the northern red hake stock catch limits increase, while the southern red hake stock catch limits decrease. A slight positive impact from the northern red hake stock may occur; however, red hake is generally not the target species for a given small-mesh fishing trip. Its value is much lower than silver hake (*i.e.,* whiting), herring, and squid, which are the primary target species for vessels using small mesh. In addition, the southern red hake landings in recent years are below the proposed reduced landings limit, which is not expected to be constraining. Therefore, the economic impacts of this action are expected to be minimal. Although a large number of small entities may be affected, the effect will be neither negative nor significant.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 1, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2016–07968 Filed 4–6–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 81, No. 67
Thursday, April 7, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–SC–16–0026]

Fruit and Vegetable Industry Advisory Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of a call for nominations.

SUMMARY: Pursuant to the Federal Advisory Committee Act, the Agricultural Marketing Service (AMS) is announcing a call for nominations to the Fruit and Vegetable Industry Advisory Committee. The Committee was re-chartered in July 2015 for the 2015–2017 two-year term.

DATES: Written nominations must be received on or before May 4, 2016.

ADDRESSES: Nominations should be sent to Charles W. Parrott, Deputy Administrator, Specialty Crops Program, through Pamela Stanziani, Designated Federal Officer, at AMS, USDA, 1400 Independence Avenue SW., Room 2077–S, Stop 0235, Washington, DC 20250–0235; Facsimile: (202) 720–0016. Email: *pamela.stanziani@ams.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Pamela Stanziani, Designated Federal Official; Phone: (202) 720–3334; Email: *pamela.stanziani@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App.), notice is hereby given that the Secretary of Agriculture intends to nominate twelve (12) industry members to the Fruit and Vegetable Industry Advisory Committee to serve two-year terms. The purpose of the Committee is to examine the full spectrum of issues faced by the fruit and vegetable industry, and provide suggestions and ideas to the Secretary on how USDA can tailor its programs to better meet the fruit and vegetable industry's needs. The Deputy Administrator of the Agricultural Marketing Service's Specialty Crops Program will serve as the Committee's Executive Secretary. Representatives from USDA mission areas and agencies affecting the fruit and vegetable industry will be called upon to participate in the Committee's meetings as determined by the Committee Chairperson.

Industry members will be appointed by the Secretary of Agriculture and serve two-year terms. Committee membership consists of twenty-five (25) members who represent the fruit and vegetable industry and will include individuals representing fruit and vegetable growers/shippers, wholesalers, brokers, retailers/restauranteurs, processors, fresh cut processors, foodservice suppliers, farmers markets and food hubs, state agencies involved in organic and conventional fresh fruits and vegetables at local, regional and national levels, State departments of agriculture, and trade associations and other commodity organizations.

The Secretary of Agriculture invites those individuals, organizations, and groups affiliated with the categories listed above to nominate individuals or themselves for membership on the Committee. Nominations should describe and document the proposed member's fruit and vegetable industry qualifications for membership to the Committee, and list their name, company/organization, address, telephone number, email, and fax number. The Secretary of Agriculture seeks a diverse group of members representing a broad spectrum of persons interested in providing suggestions and ideas on how USDA can tailor its programs to meet the fruit and vegetable industry's needs.

Individuals who are nominated will receive necessary qualification and background forms from USDA for membership. The biographical information and clearance forms must be completed and returned to USDA within 10 working days of notification, to expedite the clearance process that is required before selection of Committee members by the Secretary of Agriculture.

Equal opportunity practices will be followed in all appointments to the Committee in accordance with USDA policies. To ensure that the recommendations of the Committee take into account the needs of the diverse groups served by USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, persons with disabilities, and limited resource agriculture producers.

Dated: March 30, 2016.

Elanor Starmer,

Administrator, Agricultural Marketing Service.

[FR Doc. 2016–07631 Filed 4–6–16; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2016–0017]

Notice of Request for Extension of Approval of an Information Collection; Importation of Unshu Oranges From the Republic of Korea Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the regulations for the importation of Unshu oranges from the Republic of Korea into the continental United States.

DATES: We will consider all comments that we receive on or before June 6, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0017.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2016–0017, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0017* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for the importation of Unshu oranges from the Republic of Korea into the continental United States, contact Mr. Marc Phillips, Senior Regulatory Policy Specialist, RCC, IRM, PHP, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737; (301) 851–2114. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

SUPPLEMENTARY INFORMATION:

Title: Importation of Unshu Oranges from the Republic of Korea into the Continental United States.

OMB Control Number: 0579–0314.

Type of Request: Extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. As authorized by the PPA, the Animal and Plant Health Inspection Service (APHIS) regulates the importation of citrus fruit from certain parts of the world as provided in "Subpart—Citrus Fruit" (7 CFR 319.28).

In accordance with these regulations, APHIS allows the importation of Unshu oranges from Cheju Island, Republic of Korea, into the continental United States under certain conditions to prevent the introduction of plant pests into the United States. These conditions involve the use of information collection activities, including packinghouse registration and a phytosanitary certificate with an additional declaration stating that the fruit has undergone surface sterilization and was inspected and found free of the plant pathogen that causes sweet orange scab.

We are asking OMB to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.5675 hours per response.

Respondents: Importers of Unshu oranges and the national plant protection organization of the Republic of Korea.

Estimated annual number of respondents: 4.

Estimated annual number of responses per respondent: 9.25.

Estimated annual number of responses: 37.

Estimated total annual burden on respondents: 21 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 1st day of April 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–08013 Filed 4–6–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Economic Research Service

Notice of Request for Approval of a New Information Collection

AGENCY: Economic Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Economic Research Service's intention to request approval for a new information collection for the study of "Census of Users of the National Plant Germplasm System." This is a new collection to provide information on usage and expectations of future use among requestors of genetic resources from USDA's National Plant Germplasm System.

DATES: Comments on this notice must be received by June 6, 2016 to be assured of consideration.

Additional Information or Comments: Address all comments concerning this notice to Kelly Day Rubenstein, Resource and Rural Economics Division, Economic Research Service, U.S. Department of Agriculture, Mail Stop 1800, 1400 Independence Ave. SW., Washington, DC 20250. Comments may also be submitted via fax to the attention of Kelly Day Rubenstein at 202–694–4847 or via email to *kday@ers.usda.gov.* For further information contact Kelly Day Rubenstein at the address above, or telephone 202–694–5515.

SUPPLEMENTARY INFORMATION:

Title: Census of Users of the National Plant Germplasm System.

OMB Number: To be assigned by OMB.

Expiration Date of Approval: Three years from approval date.

Type of Request: New information collection.

Abstract: The Census of Users of the National Plant Germplasm System will solicit data from the 6,009 institutional representatives who requested germplasm (*i.e.,* living tissue from which plants can be grown) for any of ten crops including beans, barley, cotton, maize, sorghum, squash, soybeans, potato, rice, and wheat from the National Plant Germplasm System over a five year period from January 2009 to December 2013. Each respondent will be asked to provide information via a web-based questionnaire. Legislative authority for the planned data collection is 7 U.S.C. 2204(a) and 7 U.S.C. 2661.

The information to be collected by the "Census of Users of the National Plant Germplasm System" is necessary to assess and understand the types and varieties of germplasm needed by breeders and other scientists in both the public and private sectors. This study will provide data not currently available to program officials and researchers, thereby broadening the scope of economic analyses of genetic enhancement, and in turn, enhancing R&D and productivity research at the Economic Research Service (ERS), the National Plant Germplasm System, and the National Germplasm Resource Laboratory. The database would contain a wealth of empirical information on germplasm use in breeding and research. This includes information by specific crops (*e.g.,* the use of landraces in corn breeding, the search for biotic tolerance in wheat); the quantity of germplasm by type and purpose; institutional needs for germplasm (both public and private); and requestors' anticipated future use. This information will also assess biological traits that are needed for adaptation to climate change. Agriculture is highly geography-specific, given that growing regions vary by rainfall and temperature conditions, pest and disease pressures, and soil types. Accordingly, plant breeders work to develop unique varieties for different geographic locations. As a result, each requestor of NPGS germplasm is likely to have one characteristic—geographic location—which is unique and important to that institution's use of this germplasm, particularly in the context of global climate change. Moreover, it would be difficult to get adequate representation of the matrix of crops, germplasm types, and locations for some smaller crops (*e.g.,* squash) without conducting a census of all germplasm requestors to the NPGS for any of the ten crops.

A web-based instrument will be used for information collection. It will be kept as simple and respondent-friendly as possible. Responses are voluntary. The study instrument is based on a mailed paper-based instrument used in the 2000 study, "Demand for Genetic Resources from the National Plant Germplasm System." It was jointly developed by International Food Policy Research Institute (IFPRI), Auburn University's Department of Agricultural Economics and Rural Sociology, the National Germplasm Resources Lab of the National Plant Germplasm System, and the Economic Research Service. The instrument used in the 2000 study was administered by IFPRI and Auburn University and had a response rate of 35%. Study design for currently proposed study is consistent with that of the 2000 study in order to make comparisons across time. The frame for this census comprises all germplasm requestors to the NPGS for any of the ten crops in the last five years. Although the NPGS provided germplasm to any requestor free of cost, it also informed potential requestors and received their consent, at the time of a request was made, that their information could be used for activities relating to the service that they had requested. Several measures will be taken to support the response rate for the proposed information collection:

- Information will be collected via the internet rather than by mail. This data collection mode is more convenient for intended respondents and will allow for rapid follow up with non-respondents.
- This information collection will be cosponsored by the National Germplasm Resources Laboratory of USDA, which is familiar to the recipients as it is the agency that provided the requested germplasm.
- A well planned recruitment protocol will include sending the instrument with a cover letter from a senior staff member of the National Germplasm Resources Laboratory, who will be an individual familiar to many of the recipients. It also includes up to three reminder emails to non-respondents.

Should the response rate fall below 80%, a non-response bias study will be conducted. The web-based instrument was pretested for ease of use by fewer than ten germplasm requestors contacted by USDA Agricultural Research Service (ARS) and the average time spent completing the forms was 13 minutes.

Information from the Census of Users of the National Plant Germplasm System will be used for statistical purposes only and reported only in aggregate or statistical form. A public use data file will be created from this information collection. ERS does not intend to invoke CIPSEA or any other data protection statute for this collection, because it will not collect any sensitive or personal identifiable information.

Estimate of Burden: In order to answer our research question about the use of germplasm for adaptation to climate change, a census is needed to pinpoint geo-spatial demand for germplasm. Thus, all 6,009 requestors of germplasm will be asked to fill out a web instrument once during a one month data collection period; non-respondents will receive three reminder emails. 80% of requestors are assumed to provide a response to one of the four emailed instruments. The estimated time of response is 0.34 hour. This average includes time spent completing the questionnaire and reading reminder emails. 20% will be non-respondents and will incur less than 1 minute of time to read the material. Thus, response times are estimated by adding an additional minute for each reminder sent, for a total of four minutes for requestors who never respond. These estimates of respondent burden are based on pretesting by ARS scientists, conducted by the National Germplasm Resources Laboratory of the National Plant Germplasm System.

Type of Respondents: Respondents includes all individuals or institutions who requested germplasm for any of the aforesaid ten crops from the National Plant Germplasm System over the five year period as defined by this information collection.

Estimated Total Number of Respondents: 6,009.

Estimated Total Annual Burden on Respondents: 1,731.5 hours.

Comments: All written comments received will be available for public inspection in the Resource Center of the Economic Research Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 355 E St. SW., Room 04P33, Washington, DC 20024–4221. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: March 29, 2016.

Mary Bohman,

Administrator, Economic Research Service.

[FR Doc. 2016–08030 Filed 4–6–16; 8:45 am]

BILLING CODE 3410–18–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Lincoln County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Kootenai National Forest's Lincoln County Resource Advisory Committee will meet on Tuesday, April 26, 2016 at 5:00 p.m. at the Forest Supervisor's Office in Libby, Montana for a business meeting. The meeting is open to the public.

DATES: April 26, 2016.

ADDRESSES: Forest Supervisor's Office, 31374 US Hwy 2, Libby, Montana.

FOR FURTHER INFORMATION CONTACT: JeriAnn Chapel, Committee Coordinator, Kootenai National Forest at (406) 283–7643, or email *jchapel@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda will include membership discussion—replacement/new, establishing committee rules, procedures and revisit project priorities, and review the status of prior projects list. If the meeting date or location is changed, notice will be posted in the local newspapers, including the Missoulian, based in Missoula, Montana.

Dated: March 28, 2016.

Christopher Savage,

Forest Supervisor.

[FR Doc. 2016–08011 Filed 4–6–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Wenatchee-Okanogan Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Wenatchee-Okanogan Resource Advisory Committee (RAC) will meet in Wenatchee, Washington. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The purpose of the meeting is to review projects proposed for RAC consideration under Title II of the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/main/okawen/workingtogether/advisorycommittees.*

DATES: The meeting will be held from 9:00 a.m. to 3:30 p.m. on May 3, 2016.

All RAC meetings are subject to cancellation. For status of meetings prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Sunnyslope Fire Station, 206 Easy Street, Wenatchee, Washington.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Okanogan-Wenatchee NF Headquarters Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: RAC Coordinator Robin DeMario by phone at 509–664–9292 or via email at *rdemario@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to:

1. Provide status updates regarding Secure Rural Schools Program and Title II funding; and

2. Review and recommend projects for Title II funding for Kittitas and Yakima Counties.

These meetings are open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 11, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Robin DeMario, RAC Coordinator, 215 Melody Lane, Wenatchee, Washington 98801; by email to *rdemario@fs.fed.us* or via facsimile to 509–664–9286.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: March 31, 2016.

Jason Kuiken,

Deputy Forest Supervisor, Okanogan-Wenatchee National Forest.

[FR Doc. 2016–08012 Filed 4–6–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

[Docket No.: 151222999–5999–01]

Office of Administration; Commerce Alternative Personnel System

AGENCY: Office of Administration, Office of Human Resources Management, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice announces the expansion of employee coverage under the Commerce Alternative Personnel System, formerly the Department of Commerce Personnel Management Demonstration Project, published in the **Federal Register** on December 24, 1997. This coverage is extended to include employees located in the National Oceanic and Atmospheric Administration (NOAA), employed under the Office of the Chief Information Officer (OCIO).

DATES: This notice expanding and modifying the Commerce Alternative Personnel System is effective April 7, 2016.

FOR FURTHER INFORMATION CONTACT: Department of Commerce—Sandra Thompson, U.S. Department of Commerce, 14th and Constitution Avenue NW., Room 51020, Washington, DC 20230, (202) 482–0056 or Valerie Smith at (202) 482–0272.

SUPPLEMENTARY INFORMATION:

1. Background

The Office of Personnel Management (OPM) approved the Department of Commerce (DoC) demonstration project for an alternative personnel management system, and published the final plan in the **Federal Register** on Wednesday, December 24, 1997 (62 FR 67434). The demonstration project was designed to simplify current classification systems for greater flexibility in classifying work and paying employees; establish a performance management and rewards system for improving individual and organizational performance; and improve recruiting and examining to attract highly-qualified candidates. The purpose of the project was to strengthen the contribution of human resources management and test whether the same innovations conducted under the National Institute of Standards and Technology alternative personnel management system would produce similarly successful results in other DoC environments. The project was implemented on March 29, 1998. The project plan has been modified eight times to clarify certain DoC Demonstration Project authorities, and to extend and expand the project: 64 FR 52810 (September 30, 1999); 68 FR 47948 (August 12, 2003); 68 FR 54505 (September 17, 2003); 70 FR 38732 (July 5, 2005); 71 FR 25615 (May 1, 2006); 71 FR 50950 (August 28, 2006); 74 FR 22728 (May 14, 2009); 80 FR 25 (January 2, 2015). With the passage of the Consolidated Appropriations Act, 2008, Public Law 110–161, on December 26, 2007, the project was made permanent (extended indefinitely) and renamed the Commerce Alternative Personnel System (CAPS).

CAPS provides for modifications to be made as experience is gained, results are analyzed, and conclusions are reached on how the system is working. This notice announces that the DoC expands CAPS to include non-bargaining unit employees in NOAA, OCIO, in all duty locations, as a participating organization. OCIO will convert employees to career paths and occupational series already established under CAPS, requiring no additional series to be added to accommodate the expansion.

The DoC will follow the CAPS plan as published in the **Federal Register** on December 24, 1997, and subsequent modifications as listed in the Background Section of this notice.

Kevin E. Mahoney,

Director for Human Resources Management and Chief Human Capital Officer.

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I. Executive Summary

CAPS is designed to (1) improve hiring and allow DoC to compete more effectively for high-quality candidates through direct hiring, selective use of higher entry salaries, and selective use of recruitment incentives; (2) motivate and retain staff through higher pay potential, pay-for-performance, more responsive personnel systems, and selective use of retention incentives; (3) strengthen the manager's role in personnel management through delegation of personnel authorities; and (4) increase the efficiency of personnel systems through the installation of a simpler and more flexible classification system based on pay banding through reduction of guidelines, steps, and paperwork in classification, hiring, and other personnel systems, and through automation.

The current participating organizations include 7 offices of the Chief Financial Officer/Assistant Secretary for Administration in the Office of the Secretary; the Bureau of Economic Analysis; 2 units of the National Telecommunications and Information Administration (NTIA): the Institute for Telecommunications Science and the First Responder Network Authority (an independent authority within NTIA); and 11 units of the National Oceanic and Atmospheric Administration: Office of Oceanic and Atmospheric Research, National Marine Fisheries Service, the National Environmental Satellite, Data, and Information Service, National Weather Service — Space Environment Center, National Ocean Service, Program Planning and Integration Office, Office of the Under Secretary, Marine and Aviation Operations, Office of the Chief Administrative Officer, Office of the Chief Financial Officer, and the Workforce Management Office.

This amendment modifies the December 24, 1997, **Federal Register** notice. Specifically, it expands DoC CAPS to include NOAA, OCIO.

II. Basis for CAPS Expansion

A. Purpose

CAPS is designed to provide managers at the lowest organizational level the authority, control, and flexibility to recruit, retain, develop, recognize, and motivate its workforce, while ensuring adequate accountability and oversight.

The expansion of coverage to include NOAA, OCIO, should improve OCIO's ability to recruit and retain a high-quality workforce.

DoC's CAPS allows for modifications of procedures if no new waiver from law or regulation is added. Given that this expansion and modification is in accordance with existing law and regulation and CAPS is a permanent alternative personnel system, the DoC is authorized to make the changes described in this notice.

B. Participating Employees

Employee notification of this expansion will be accomplished by providing a full set of briefings to employees and managers and providing them electronic access to all CAPS policies and procedures, including the nine previous **Federal Register** Notices. Employees will also be provided a copy of this **Federal Register** notice upon approval. Subsequent supervisor training and informational briefings for all employees will be accomplished prior to the implementation date of the expansion.

III. Changes to the Project Plan

The CAPS at DoC, published in the **Federal Register** on December 24, 1997 (62 FR 67434), is amended as follows:

1. The following organization will be added to the project plan, Section II D—Participating Organizations

National Oceanic and Atmospheric Administration (NOAA), Office of the Chief Information Officer (OCIO)

[FR Doc. 2016–07982 Filed 4–6–16; 8:45 am]

BILLING CODE 3510–EA–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Baldrige Performance Excellence Program (BPEP)/National Institute of Standards and Technology (NIST).

Title: Malcolm Baldrige National Quality Award (MBNQA) Application.

OMB Control Number: 0693–0006.

Form Number(s): None.

Type of Request: Revision of a current information collection.

Number of Respondents: 30 organizations apply for the MBNQA; 550 individuals apply for a spot on the MBNQA Board of Examiners, the assessors who review the applications for the MBNQA.

Average Hours per Response: 30 minutes for organizational applications for MBNQA, and 30 minutes for applications for the Board of Examiners.

Burden Hours: MBNQA = 15 hours, Board of Examiners = 275 hours.

Needs and Uses: Collection needed to obtain information to conduct the MBNQA (Public Law 100–107, Malcolm Baldrige National Quality Improvement Act of 1987).

Affected Public: Business, health care, education, or other for-profit organizations; health care, education, and other nonprofit organizations; and individuals or households.

Frequency: Annual.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: April 4, 2016.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2016–07966 Filed 4–6–16; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("the Department") has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with February anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: *Effective Date:* April 7, 2016.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with February anniversary dates. With respect to the antidumping duty orders of Certain Frozen Warmwater Shrimp from India and Thailand, the initiation of the antidumping duty administrative review for these cases will be published in a separate initiation notice.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review ("POR"), it must notify the Department within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended ("the Act"). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, except for the reviews of the antidumping duty orders on certain crystalline silicon photovoltaic products from Taiwan and the People's Republic of China ("PRC"), the Department intends to select respondents based on U.S. Customs and Border Protection ("CBP") data for U.S. imports during the period of review. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments five days after the deadline for the initial comments.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be "collapsed" (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value ("Q&V") Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Respondent Selection—Certain Crystalline Silicon Photovoltaic Products From Taiwan and the PRC

In the event the Department limits the number of respondents for individual examination in the administrative reviews of the antidumping duty orders on certain crystalline silicon photovoltaic products from Taiwan and the PRC, the Department intends to select respondents, for the instant reviews, based on volume data contained in responses to Q&V questionnaires. We note that the units used to measure U.S. import quantities of solar cells and solar modules in CBP data are "number"; however, it would not be meaningful to sum the number of imported solar cells and the number of imported solar modules in attempting to determine the volume of subject merchandise exported by Taiwanese exporters. Moreover, we also have concerns regarding inconsistencies in the unit of measure used to report CBP data for solar modules exported from the PRC. Therefore, all parties for which we have initiated administrative reviews of the antidumping duty orders on certain crystalline silicon photovoltaic products from Taiwan and the PRC are hereby notified that they must timely respond to the Q&V questionnaire issued by the Department. Please be advised that due to the time constraints imposed by the statutory and regulatory deadlines for antidumping duty administrative reviews, the Department does not intend to grant any extensions for the submission of responses to the Q&V questionnaire.

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[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the "Instructions for Filing the Certification" in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding[2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Furthermore, companies to which the Department issues Q&V questionnaires in the administrative review of the antidumping duty order on certain crystalline silicon photovoltaic products from the PRC must submit a timely and complete response to the Q&V questionnaire, in addition to a timely and complete Separate Rate Status Application or Separate Rate Certification in order to receive consideration for separate-rate status. In other words, the Department will not give consideration to any timely Separate Rate Status Application or Separate Rate Certification made by parties to whom the Department issued a Q&V questionnaire but who failed to respond in a timely manner to the Q&V questionnaire.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than Febuary 28, 2017.

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[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.*, an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

Antidumping Duty Proceedings	Period to be Reviewed
BRAZIL: Certain Frozen Warmwater Shrimp	
A-351-838	2/1/15 - 1/31/16
Amazonas Industria Alimenticias S.A.	
BRAZIL: Stainless Steel Bar	
A-351-825	2/1/15 - 1/31/16
Villares Metals S.A.	
INDIA: Certain Preserved Mushrooms	
A-533-813	2/1/15 - 1/31/16
Agro Dutch Foods Limited (Agro Dutch Industries Limited) Himalya International Ltd. Hindustan Lever Ltd. (formerly Ponds India, Ltd.) Transchem, Ltd. Weikfield Foods Pvt. Ltd.	
INDIA: Stainless Steel Bars	
A-533-810	2/1/15 - 1/31/16
Ambica Steels Limited Bhansali Bright Bars Pvt. Ltd.	
ITALY: Stainless Steel Butt-Weld Pipe Fittings	
A-475-828	2/1/15 - 1/31/16
Filmag Italia Spa	
MEXICO: Large Residential Washers	
A-201-842	2/1/15 - 1/31/16
Electrolux Home Products Corp. NV Electrolux Home Products de Mexico, S.A. de C.V.	
REPUBLIC OF KOREA: Certain Cut-to-Length Carbon Quality Steel Plate	
A-580-836	2/1/15 - 1/31/16
BDP International Bookuk Steel Co., Ltd. Daewoo International Corp. Dongkuk Steel Mill Co., Ltd.	

GS Global Corp.
Hyundai Glovis Co., Ltd.
Hyundai Mipo Dockyard Co., Ltd.
Hyundai Steel Company
Hyosung Corporation
Samsung C&T Corp.
Samsung C&T Engineering & Construction Group
Samsung C&T Trading and Investment Group
Samsung Heavy Industries
SK Networks
Sung Jin Steel Co., Ltd.

REPUBLIC OF KOREA: Large Residential Washers
A-580-868 2/1/15 - 1/31/16

LG Electronics, Inc.

SOCIALIST REPUBLIC OF VIETNAM: Certain Frozen Warmwater Shrimp
A-552-802[4] 2/1/15 - 1/31/16

Amanda Foods (Vietnam) Ltd. Ngoc Tri Seafood Company (Amanda's affiliate)
Amanda Seafood Co., Ltd.
An Giang Coffee JSC
Anvifish Joint Stock Co.
Asia Food Stuffs Import Export Co., Ltd.
Au Vung One Seafood Processing Import & Export Joint Stock Company
Bac Lieu Fisheries Joint Stock Company ("Bac Lieu")
Bac Lieu Fisheries Joint Stock Company ("Bac Lieu Fis")
Bac Lieu Fisheries Joint Stock Company
Bentre Aquaproduct Import & Export Joint Stock Company
Ben Tre Forestry and Aquaproduct Import Export Joint Stock Company ("Faquimex")
Bentre Forestry and Aquaproduct Import-Export Joint Stock Company (FAQUIMEX)
Bien Dong Seafood Co., Ltd.
BIM Seafood Joint Stock Company
Binh An Seafood Joint Stock Company
Binh Thuan Import – Export Joint Stock Company (THAIMEX)
B.O.P. Limited Co.
C.P. Vietnam Corporation

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[4] The Department and counsel for American Shrimp Processors Association ("ASPA") and Ad Hoc Shrimp Trade Action Committee ("AHSTAC") discussed the clarification of certain company names in their respective review requests dated February 29, 2016. Based on agreement with counsel for both ASPA and AHSTAC , the Department removed duplicate names and adjusted other names requested for review that are not actual company names for initiation in the Federal Register. See Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, from Irene Gorelik, Analyst, Office V, re; "Clarification of Company Names Within AHSTAC Review Request," dated March 10, 2016, and Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, from Irene Gorelik, Analyst, Office V, re; "Clarification of Company Names Within ASPA Review Request," dated March 10, 2016.

C.P. Vietnam Corporation ("C.P. Vietnam")
C.P. Vietnam Livestock Corporation
C.P. Vietnam Livestock Company Limited
Cai Doi Vam Seafood Import-Export Co. ("CADOVIMEX")
Cadovimex Seafood Import-Export and Processing Joint-Stock Company ("Cadovimex")
Cadovimex Seafood Import-Export and Processing Joint Stock Company ("CADOVIMEX-VIETNAM")
Cai Doi Vam Seafood Import-Export Company
Caidoivam Seafood Company (Cadovimex)
Cafatex
Cafatex Corporation
Cafatex Fishery Joint Stock Corporation
Cafatex Vietnam
Cafatex Fishery Joint Stock Corporation ("Cafatex Corp.")
Ca Mau Seafood Joint Stock Company ("Seaprimexco Vietnam")
Ca Mau Seafood Joint Stock Company ("SEAPRIMEXCO")
Cam Ranh Seafoods
Cam Ranh Seafoods Processing Enterprise Company
Cam Ranh Seafoods Processing Enterprise Processing Pte.
Ca Mau Frozen Seafood Processing Import Export Corporation ("CAMIMEX")
Camau Frozen Seafood Processing Import Export Corporation ("Camimex")
Camau Frozen Seafood Processing Import Export Corp. (CAMIMEX-FAC 25)
Camau Frozen Seafood Processing Import-Export Corporation ("CAMIMEX")
Camau Seafood Processing and Service Joint-Stock Company ("CASES")
Camau Seafood and Service Joint Stock Company ("CASES")
Camau Seafood Processing and Service Joint Stock Corporation (and its affiliates, Kien Giang Branch - Camau Seafood Processing & Service Joint Stock Corporation, collectively "CASES")
Camau Seafood Factory No. 4
Camau Seafood Factory No. 5
Can Tho Import Export Fishery Limited Company ("CAFISH")
Can Tho Agricultural and Animal Product Import Export Company ("CATACO")
Can Tho Agricultural and Animal Products Import Export Company ("CATACO")
Can Tho Agricultural and Animal Products Imex Company
Can Tho Agricultural Products
Can Tho Import Export Seafood Joint Stock Company (CASEAMEX)
Cautre Export Goods Processing Joint Stock Company
CL Fish Co., Ltd. (Cuu Long Fish Company)
Coastal Fisheries Development Corporation ("COFIDEC")
Cong Ty Tnhh Thong Thuan (Thong Thuan)
Cuu Long Seaproducts Company ("Cuu Long Seapro")
Cuulong Seaproducts Company ("Cuu Long Seapro")
Cuulong Seaproducts Company ("Cuulong Seapro")
D & N Foods Processing (Danang Company Ltd.)
Danang Seaproducts Import Export Corporation ("Seaprodex Danang")
Danang Seaproducts Import-Export Corporation ("Seaprodex Danang")

Danang Seaproducts ImportExport Corporation
Duy Dai Corporation
Fimex VN
Fine Foods Company (FFC) (Ca Mau Foods & Fishery Export Joint Stock Company)
Frozen Seafoods Factory No. 32
Gallant Dachan Seafood Co., Ltd.
Gallant Ocean (Vietnam) Co., Ltd.
Gallant Ocean (Quang Ngai) Co., Ltd.
Gn Foods
Green Farms Joint Stock Company
Green Farms Seafood Joint Stock Company
Hai Thanh Food Company Ltd.
Hai Viet Corporation ("HAVICO")
Hai Vuong Co., Ltd.
Han An Trading Service Co., Ltd.
Hoang Hai Company Ltd.
Hoang Phuong Seafood Factory
Hua Heong Food Industries Vietnam Co. Ltd.
Huynh Huong Seafood Processing
Incomfish
Incomfish Corp.
Investment Commerce Fisheries
Investment Commerce Fisheries Corporation ("INCOMFISH")
Investment Commerce Fisheries Corporation (INCOMFISH)
Khanh Loi Seafood Factory
Kien Long Seafoods Co. Ltd.
Kim Anh Company Limited
Kim Anh Company Limited ("Kim Anh")
Kim Anh Company Ltd. (Thai Tan company and Ngoc Thai Company, collectively "Kim Anh")
Long Toan Frozen Aquatic Products Joint Stock Company
Luan Vo Fishery Co., Ltd.
Minh Chau Imp. Exp. Seafood Processing Co., Ltd.
Minh Cuong Seafood Import Export Frozen Processing Joint Stock Company ("Minh Cuong Seafood")
Minh Cuong Seafood Import-Export Processing ("MC Seafood")
Minh Hai Export Frozen Seafood Processing Joint-Stock Company ("Minh Hai Jostoco")
Minh Hai Export Frozen Seafood Processing JointStock Company ("Minh Hai Jostoco")
Minh Hai Joint-Stock Seafoods Processing Company ("Seaprodex Minh Hai")
Minh Hai Joint-Stock Seafoods Processing Company
Minh Hai Sea Products Import Export Company ("Seaprimex Co")
Minh Phat Seafood
Minh Phat Seafood Co., Ltd.
Minh Phu Seafood Corp.
Minh Phu Seafood Pte
Minh Phu Seafood Corporation

Minh Phu Hau Giang Seafood Corp.
Minh Qui Seafood
Minh Qui Seafood Co., Ltd.
Minh Phu Seafood Corporation (and its affiliates Minh Qui Seafood Co., Ltd., Minh Phu Hau Giang Seafood Corp and Minh Phat Seafood Co., Ltd.) (collectively "Minh Phu Group")
Mp Consol Co., Ltd.
My Son Seafoods Factory
Nam Hai Foodstuff and Export Company Ltd
New Wind Seafood Co., Ltd.
Ngo Bros Seaproducts Import-Export One Member Company Limited
Ngo Bros Seaproducts Import-Export One Member Company Limited (Ngo Bros. Co., Ltd.)
NGO BROS Seaproducts Import- Export One Member Company Limited ("NGO BROS Company")
Ngoc Chau Co., Ltd.
Ngoc Chau Seafood Processing Company
Ngoc Sinh
Ngoc Sinh Fisheries
Ngoc Sinh Private Enterprises
Ngoc Sinh Seafood Processing Company
Ngoc Sinh Seafood Trading & Processing Enterprise
Ngoc Sinh Seafoods
Ngoc Tri Seafood Joint Stock Company
Nha Trang Fisheries Joint Stock Company ("Nha Trang Fisco")
Nha Trang Seaproduct Company ("Nha Trang Seafoods")
Nha Trang Seaproduct Company (and its affiliates NT Seafoods Corporation, Nha Trang Seafoods - F.89 Joint Stock Company, NTSF Seafoods Joint Stock Company (collectively "Nha Trang Seafoods Group")
NTSF Seafoods Joint Stock Company ("NTSF Seafoods")
Nhat Duc Co., Ltd. ("Nhat Duc")
Nhat Duc Co., Ltd.
Phu Cuong Jostoco Corp.
Phu Cuong Jostoco Seafood Corporation
Phuong Nam Co., Ltd. ("Phuong Nam")
Phuong Nam Co., Ltd.
Phuong Nam Foodstuff Corp. ("Phuong Nam")
Phuong Nam Foodstuff Corp.Phuong Nam Foodstuff Corp. ("Phuong Nam Co., Ltd.")
Quang Minh Seafood Co LTD ("Quang Minh")
Quang Minh Seafood Co., Ltd.
Quang Ninh Export Aquatic Products Processing Factory
Quang Ninh Seaproducts Factory
Quoc Ai Seafood Processing Import Export Co., Ltd.
Quoc Viet Seaproducts Processing Trading and Import - Export Co., Ltd.
Quoc Viet Seaproducts Processing Trade and Import-Export Co., Ltd. ("Quoc Viet Co. Ltd.")

S.R.V. Freight Services Co., Ltd.
Saigon Food Joint Stock Company
Sao Ta Foods Joint Stock Company ("FIMEX VN") (and its factory "Sao Ta Seafoods Factory")
Sao Ta Foods Joint Stock Company ("Fimex VN")
Sao Ta Foods Joint Stock Company
Sao Ta Seafood Factory
Sea Minh Hai
Seafoods and Foodstuff Factory
Seaprimexco
Seaprimexco Vietnam
Seaprodex Danang
Seaprodex Minh Hai
Seavina Joint Stock Company
Soc Trang Aquatic Products and General Import Export Company ("Stapimex")
Soc Trang Seafood Joint Stock Company ("STAPIMEX")
Sustainable Seafood
Tacvan Frozen Seafood Processing Export Company
Tacvan Seafoods Company (TACVAN)
Tacvan Frozen Seafood Processing Export Company ("Tac Van Seafoods Co")
Tai Kim Anh Seafood Joint Stock Corporation
Tan Phong Phu Seafood Co., Ltd.
Tan Phong Phu Seafood Company Ltd. ("TPP Co., Ltd.")
Tan Phong Phu Seafood Co. Ltd. ("TPP Co., Ltd.")
Tan Thanh Loi Frozen Food Co., Ltd.
Taydo Seafood Enterprise
Thanh Doan Seaproducts Import & Export Processing Joint-Stock Company (THADIMEXCO)
Thanh Hung Frozen Seafood Processing Import Export Co., Ltd.
Thanh Tri Seafood Processing Co. Ltd.
Thinh Hung Co., Ltd.
Tho Quang Co
Tho Quang Seafood Processing and Export CompanyThong Thuan Company
Thong Thuan Company Limited
Thong Thuan Seafood Company Limited
Thong Thuan – Cam Ranh Seafood Joint Stock Company
Thuan Phuoc Seafoods and Trading Corporation ("Thuan Phuoc Corp")
Thuan Phuoc Seafoods and Trading Corporation and its separate factories Frozen Seafoods Factory No. 32, Seafoods and Foodstuff Factory, and My Son Seafoods Factory (collectively, "Thuan Phuoc Corp.")
Thuan Phuoc Seafoods and Trading Corporation
Tien Tien Garment Joint Stock Company
Tithi Co., Ltd.
Trang Khan Seafood Co., Ltd.
Trong Nhan Seafood Company Limited
UTXI Aquatic Products Processing Corporation ("UTXICO") (and its branch Hoang

Phuong Seafood Factory and Hoang Phong Seafood Factory)
UTXI Aquatic Products Processing Corporation ("UXTICO")
UTXI Aquatic Products Processing Company
Viet Cuong Seafood Processing Import Export Joint-Stock Company
Viet Foods Co., Ltd. ("Viet Foods")
Viet Foods Co., Ltd.
Viet Hai Seafood Co., Ltd.
Viet I-Mei Frozen Foods Co., Ltd.
Viet I-Mei Frozen Foods Co. Ltd ("Viet I-Mei")
Vietnam Clean Seafood Corporation ("Vina Cleanfood")
Vietnam Clean Seafood Corporation
Vietnam Fish One Co., Ltd.
Vietnam Fish-One Co., Ltd. ("Fish One")
Vietnam Northern Viking Technologies Co. Ltd.
Vinatex Danang
Vinh Hoan Corp.
Vinh Loi Import Export Company ("VIMEX")
Vinh Loi Import Export Company ("Vimexco")
Xi Nghiep Che Bien Thuy Suc San Xuat Kau Cantho

SOCIALIST REPUBLIC OF VIETNAM: Steel Wire Garment Hangers
A-552-812[5] 2/1/15 - 1/31/16

Acton Co, Ltd.
Angang Clothes Rack Manufacture Co.
Asmara Home Vietnam
B2B Co., Ltd.
Capco Wai Shing Viet Nam Co. Ltd.
Cong Ty Co Phan Moc Ao
CTN Co. Ltd.
C.T.N. International Ltd.
CTN Limited Company
Cty Tnhn Mtv Xnk My Phuoc
Cty Thnh San Xuat My Phuoc Long An Factory
Dai Nam Group
Dai Nam Investment JSC
Diep Son Hangers Co. Ltd.
Diep Son Hangers One Member Co. Ltd.
Dong Nam A Co. Ltd.
Dong Nam A Hamico Joint Stock Company
Dong Nam A Trading Co.

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[5] The Department and counsel for Petitioners discussed duplication of names in the review request dated February 10, 2016. Based on Petitioners' agreement, the Department removed a duplicate name to be initiated for review in the Federal Register. See Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, from Irene Gorelik, Analyst, Office V, re; "Clarification of Company Names Within Petitioners' Review Request," dated March 21, 2016.

EST Glory Industrial Ltd.
Focus Shipping Corp.
Godoxa Vietnam Co. Ltd.
Godoxa Viet Nam Ltd.
HCMC General Import and Export Investment Joint Stock Company
Hongxiang Business and Product Co., Ltd.
Huqhu Co., Ltd.
Infinite Industrial Hanger Limited
Infinite Industrial Hanger Co. Ltd.
Ju Fu Co. Ltd.
Linh Sa Hamico Company, Ltd.
Long Phung Co. Ltd.
Lucky Cloud (Vietnam) Hanger Co. Ltd.
Minh Quang Hanger
Minh Quang Steel Joint Stock Company
Moc Viet Manufacture Co., Ltd.
Nam A Hamico Export Joint Stock Co.
Nghia Phoung Nam Production Company
Nguyen Haong Vu Co. Ltd.
N-Tech Vina Co. Ltd.
NV Hanger Co., Ltd.
Quoc Ha Production Trading Services Co. Ltd.
Quyky Co., Ltd
Quyky Group
Quyky-Yangle International Co., Ltd.
S.I.I.C.
South East Asia Hamico Exports JSC
T.J. Co. Ltd.
Tan Dihn Enterprise
Tan Minh Textile Sewing Trading Co., Ltd.
Thanh Hieu Manufacturing Trading Co. Ltd.
The Xuong Co. Ltd.
Thien Ngon Printing Co, Ltd.
Top Sharp International Trading Limited
Triloan Hangers, Inc.
Tri-State Trading
Trung Viet My Joint Stock Company
Truong Hong Lao - Viet Joint Stock Co., Ltd.
Uac Co. Ltd.
Viet Anh Imp-Exp Joint Stock Co.
Viet Hanger
Viet Hanger Investment, LLC
Vietnam Hangers Joint Stock Company
Vietnam Sourcing
VNS
VN Sourcing

Winwell Industrial Ltd. (Hong Kong)
Yen Trang Co., Ltd.
Zownzi Hardware Hanger Factory Ltd.

SOCIALIST REPUBLIC OF VIETNAM: Utility Scale Wind Towers	
A-552-814	2/1/15 - 1/31/16

CS Wind Vietnam, Co., Ltd.
CS Wind Corporation
Vina Halla Heavy Industries Ltd.
UBI Tower Sole Member Company Ltd.

TAIWAN: Certain Crystalline Silicon Photovoltaic Products	
A-583-853	7/31/14 - 1/31/16

AU Optronics Corporation
Baoding Jiasheng Photovoltaic Technology Co. Ltd.
Baoding Tianwei Yingli New Energy Resources Co., Ltd.
Beijing Tianneng Yingli New Energy Resources Co. Ltd.
Boviet Solar Technology Co., Ltd.
Canadian Solar Inc.
Canadian Solar International, Ltd.
Canadian Solar Manufacturing (Changshu), Inc.
Canadian Solar Manufacturing (Luoyang), Inc.
Canadian Solar Solution Inc.
EEPV CORP.
E-TON Solar Tech. Co., Ltd.
Gintech Energy Corporation
Hainan Yingli New Energy Resources Co., Ltd.
Hengshui Yingli New Energy Resources Co., Ltd.
Inventec Energy Corporation
Inventec Solar Energy Corporation
Kyocera Mexicana S.A. de C.V.
Lixian Yingli New Energy Resources Co., Ltd.
Motech Industries, Inc.
Shenzhen Yingli New Energy Resources Co., Ltd.
Sino-American Silicon Products Inc.
Solartech Energy Corporation
Sunengine Corporation Ltd.
Sunrise Global Solar Energy
Tianjin Yingli New Energy Resources Co., Ltd.
TSEC Corporation
Vina Solar Technology Co., Ltd.
Win Win Precision Technology Co., Ltd.
Yingli Energy (China) Co., Ltd.
Yingli Green Energy Holding Company Limited

Yingli Green Energy International Trading Company Limited

THE PEOPLE'S REPUBLIC OF CHINA: Certain Crystalline Silicon Photovoltaic Products
A-570-010 7/31/14 - 1/31/16

BYD (Shangluo) Industrial Co., Ltd.
Canadian Solar Inc.
Canadian Solar International Limited
Canadian Solar Manufacturing (Changshu), Inc.
Canadian Solar Manufacturing (Luoyang) Inc.
Changzhou Trina Solar Energy Co., Ltd./Trina Solar (Changzhou) Science & Technology Co., Ltd.
Chint Solar (Zhejiang) Co., Ltd.
Hefei JA Solar Technology Co., Ltd.
Jinko Solar Co. Ltd./Jinko Solar Import and Export Co., Ltd.[6]
Perlight Solar Co., Ltd.
Risen Energy Co., Ltd
Shanghai BYD Co., Ltd.
Shanghai JA Solar Technology Co., Ltd.
Shenzhen Sungold Solar Co., Ltd.
Sunny Apex Development Ltd.
Wuxi Suntech Power Co., Ltd.
Yingli Energy (China) Company Limited
Yingli Green Energy International Trading Limited
Baoding Jiasheng Photovoltaic Technology Co. Ltd.
Baoding Tianwei Yingli New Energy Resources Co., Ltd.
Beijing Tianneng Yingli New Energy Resources Co. Ltd.
Hainan Yingli New Energy Resources Co., Ltd.
Hengshui Yingli New Energy Resources Co., Ltd.
Lixian Yingli New Energy Resources Co., Ltd.
Shenzhen Yingli New Energy Resources Co., Ltd.
Tianjin Yingli New Energy Resources Co., Ltd.
Zhejiang Jinko Solar Co., Ltd.

THE PEOPLE'S REPUBLIC OF CHINA: Certain Frozen Warmwater Shrimp
A-570-893 2/1/15 - 1/31/16

Allied Pacific Food (Dalian) Co., Ltd.[7]

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[6] In the final determination of the underlying investigation we treated Jinko Solar Co. Ltd. and Jinko Solar Import and Export Co., Ltd. together with Renesola Jiangsu Ltd. and Renesola Zhejiang Ltd. as a single entity. See Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 79 FR 76970 (December 23, 2014).

[7] This Order was revoked with respect to merchandise exported by Allied Pacific (HK) Co., Ltd., or Allied Pacific Food (Dalian) Co., Ltd., and manufactured by Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd., or Allied Pacific Aquatic Products (Zhongshan) Co., Ltd., or Allied Pacific Food (Dalian) Co., Ltd. See Certain Frozen Warmwater Shrimp From the People's Republic of China and Diamond Sawblades and Parts Thereof From the People's Republic of China: Notice of Implementation of Determinations Under Section 129 of the Uruguay

Allied Pacific (HK) Co., Ltd.
Asian Seafoods (Zhanjiang) Co., Ltd.
Beihai Anbang Seafood Co., Ltd.
Beihai Boston Frozen Food Co., Ltd.
Beihai Tianwei Aquatic Food Co. Ltd.
Changli Luquan Aquatic Products Co., Ltd.
Dalian Beauty Seafood Company Ltd.
Dalian Haiqing Food Co., Ltd.
Dalian Rich Enterprise Group Co., Ltd.
Dalian Shanhai Seafood Co., Ltd.
Dalian Taiyang Aquatic Products Co., Ltd.
Fujian Chaohui Group
Fujian Chaohui Aquatic Food Co., Ltd.
Fujian Chaohui International Trading Co., Ltd.
Fujian Dongshan County Shunfa Aquatic Product Co., Ltd.
Fujian Dongya Aquatic Products Co., Ltd.
Fujian Haohui Import & Export Co., Ltd.
Fujian Rongjiang Import and Export Co., Ltd.
Fujian Tea Import & Export Co., Ltd.
Fujian Zhaoan Haili Aquatic Co., Ltd.
Fuqing Chaohui Aquatic Food Co., Ltd.
Fuqing Dongwei Aquatic Products Ind.
Fuqing Longhua Aquatic Food Co., Ltd.
Fuqing Minhua Trade Co., Ltd.
Fuqing Yihua Aquatic Food Co., Ltd.
Guangdong Foodstuffs Import & Export (Group) Corporation
Guangdong Gourmet Aquatic Products Co., Ltd.
Guangdong Jinhang Food Co., Ltd.
Guangdong Wanshida Holding Corp.
Guangdong Wanya Foods Fty. Co., Ltd.
HaiLi Aquatic Product Co., Ltd. Zhaoan Fujian
Hainan Brich Aquatic Products Co., Ltd.
Hainan Golden Spring Foods Co., Ltd.
Huazhou Xinhai Aquatic Products Co. Ltd.
Longhai Gelin Foods Co., Ltd.
Maoming Xinzhou Seafood Co., Ltd.
New Continent Foods Co., Ltd.
North Seafood Group Co.
Qingdao Fusheng Foodstuffs Co., Ltd.
Qinhuangdao Gangwan Aquatic Products Co., Ltd.
Red Garden Food Processing Co., Ltd.[8]

Round Agreements Act and Partial Revocation of the Antidumping Duty Orders, 78 FR 18958, 18959 (March 28, 2013). Accordingly, we are initiating this review for these exporters only with respect to subject merchandise produced by entities other than the aforementioned producers.

[8] This Order was revoked with respect to merchandise exported by Shantou Red Garden Foodstuff Co., Ltd., or Red Garden Food Processing Co., Ltd., and produced by Red Garden Food Processing Co., Ltd., or

Rizhao Rongxing Co. Ltd.
Rizhao Smart Foods Company Limited
Rongcheng Yinhai Aquatic Product Co., Ltd.
Savvy Seafood Inc.
Shanghai Zhoulian Foods Co., Ltd.
Shantou Freezing Aquatic Product Foodstuffs Co.
Shantou Jiazhou Food Industrial Co., Ltd.
Shantou Jintai Aquatic Product Industrial Co., Ltd.
Shantou Longsheng Aquatic Product Foodstuff Co., Ltd.
Shantou Red Garden Food Processing Co., Ltd.
Shantou Red Garden Foodstuff Co., Ltd.
Shantou Wanya Foods Fty. Co., Ltd.
Shantou Yelin Frozen Seafood Co., Ltd.
Shantou Yuexing Enterprise Co.
Thai Royal Frozen Food Zhanjiang Co., Ltd.
Xiamen Granda Import and Export Co., Ltd.
Yangjiang Haina Datong Trading Co.
Yantai Wei Cheng Food Co., Ltd.
Yelin Enterprise Co. Hong Kong[9]
Zhangzhou Donghao Seafoods Co., Ltd.
Zhangzhou Xinwanya Aquatic Product Co., Ltd.
Zhangzhou Yanfeng Aquatic Product & Foodstuff Co., Ltd.
Zhanjiang Evergreen Aquatic Product Science and Technology Co., Ltd.
Zhanjiang Guolian Aquatic Products Co., Ltd.[10]
Zhanjiang Jinguo Marine Foods Co., Ltd.

Chaoyang Jindu Hengchang Aquatic Products Enterprise Co., Ltd., or Raoping County Longfa Seafoods Co., Ltd., or Meizhou Aquatic Products Quick-Frozen Industry Co., Ltd., or Shantou Jinyuan District Mingfeng Quick-Frozen Factory, or Shantou Long Feng Foodstuffs Co., Ltd. See Certain Frozen Warmwater Shrimp From the People's Republic of China and Diamond Sawblades and Parts Thereof From the People's Republic of China: Notice of Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Orders, 78 FR 18958, 18959 (March 28, 2013). Accordingly, we are initiating this review for these exporters only with respect to subject merchandise produced by entities other than the aforementioned producers.

[9] This Order was revoked with respect to merchandise exported by by Yelin Enterprise Co. Hong Kong or Shantou Yelin Frozen Seafood Co., Ltd., and manufactured by Shantou Yelin Frozen Seafood Co., Ltd., or Yangjiang City Yelin Hoi Tat Quick Frozen Seafood Co., Ltd., or Fuqing Yihua Aquatic Food Co., Ltd., or Shantou Jinyuan District Mingfeng Quick-Frozen Factory. See Certain Frozen Warmwater Shrimp From the People's Republic of China and Diamond Sawblades and Parts Thereof From the People's Republic of China: Notice of Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Orders, 78 FR 18958, 18959 (March 28, 2013). Accordingly, we are initiating this review for these exporters only with respect to subject merchandise produced by entities other than the aforementioned producers.

[10] This Order was revoked with respect to subject merchandise produced and exported by Zhanjiang Guolian Aquatic Products Co., Ltd. See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the People's Republic of China, 70 FR 5149, 5152 (February 1, 2005). Accordingly, we are initiating this review for this exporter only with respect to subject merchandise produced by another entity.

Zhanjiang Longwei Aquatic Products Industry Co., Ltd.
Zhanjiang Newpro Foods Co., Ltd.
Zhanjiang Regal Integrated Marine Resources Co., Ltd.[11]
Zhanjiang Universal Seafood Corp.
Zhaoan Yangli Aquatic Co., Ltd.
Zhejiang Xinwang Foodstuffs Co., Ltd.
Zhoushan Genho Food Co., Ltd.

THE PEOPLE'S REPUBLIC OF CHINA: Certain Preserved Mushrooms
A-570-851 2/1/15 - 1/31/16

Agrogentra & Co., Ltd.
Ayecue (Liaocheng) Foodstuff Co., Ltd.
Blue Field (Sichuan) Food Industrial Co., Ltd.
Cargo Services (China) Limited
Casia Global Logistics Co., Ltd.
Changzhou Chen Rong-Da Carpet Co., Ltd.
Chaoda Mushroom Co., Ltd.
China National Cereals, Oil & Foodstuffs Import & Export Corp.
China Processed Food Import & Export Co.
Dalian New Century Food Co., Ltd.
Dezhou Kaihang Agricultural Science Technology Co. Ltd.
DHL ISC (Hong Kong) Limited
DSV Air Sea Co., Ltd.
Dujiangyan Xingda Foodstuff Co., Ltd.
Ever Since Group Co., Ltd.
Fujian Blue Lake Foods Co., Ltd.
Fujian Golden Banyan Foodstuffs Industrial Co., Ltd.
Fujian Haishan Foods Co., Ltd.
Fujian Pinghe Baofeng Canned Foods
Fujian Tongfa Foods Group Co., Ltd.
Fujian Yuxing Fruits and Vegetables Foodstuffs Development Co., Ltd.
Fujian Zishan Group Co., Ltd.
Golden Banyan Foodstuffs Industry Co., Ltd.
Guangxi Eastwing Trading Co., Ltd.
Guangxi Hengyong Industrial & Commerical Dev. Ltd.
Guangxi Jisheng Foods, Inc.
Hangzhou Happy Green Co., Ltd.
Hoa Mai Food Company Limited
Honour Lane Shipping Ltd.

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[11] This Order was revoked with respect to subject merchandise produced and exported by Zhanjiang Regal Integrated Marine Resources Co., Ltd. See Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results of Administrative Review; 2011–2012, 78 FR 56209, 56210 (September 12, 2013). Accordingly, we are initiating this review for this exporter only with respect to subject merchandise produced by another entity.

Inter-Foods (Dongshan) Co., Ltd.
Jeenhuat Foodstuffs Industries Sdn. Bhd.
Jewell International Corporation
Jiangxi Cereals Oils Foodstuffs
Jin Feng Food Co., Ltd.
Joy Foods (Zhangzhou) Co., Ltd.
Kuehne & Nagel Limited Xiamen Branch
LF Logistics Co., Ltd.
Linyi City Kangfa Foodstuff Drinkable Co., Ltd.
Linyi Yuqiao International Trade Co., Ltd.
Logistics THL Corp.
Longhai Guangfa Food Co., Ltd.
Mikado Food China Co., Ltd.
Nam Phuong International Co., Ltd.
Nam Tien Production & Export Co., Ltd.
Omni Ringo Business Ltd.
OOCL Logistics Ltd.
Orient Express Container Co., Ltd.
Paifu Enterprise Corporation
Panalpina World Transport (PRC) Ltd.
Philippine Haofeng Food Corporation
Primera Harvest (Xiangfan) Co., Ltd.
PT. Apex Maritim Indonesia
PT. Eka Timur Raya (Etira Mushrooms)
PT. Suryajaya Abadi Perkasa
Pudong Prime International Logistics Inc.
Seahorse Shipping Corporation
Shandong Fengyu Edible Fungus Corporation Ltd.
Shandong Jiufa Edible Fungus Corporation, Ltd.
Shandong Xinfa Agricultural Science Corporation Ltd.
Shandong Yinfeng Rare Fungus Corporation, Ltd.
Shanghai Best Wholesome Economy & Trade Co., Ltd.
Shenzhen Syntrans International Logistics Co., Ltd.
Shouguang Sunrise Industry & Commerce Co., Ltd.
Shundi Foods Co., Ltd.
Speedier Logistics Co., Ltd.
Success Program International Transport J.S.C.
Sun Mark Industrial Corp.
Sun VN Transport Corp.
Sun Wave Trading Co., Ltd.
Sun Wave & Trading Co., Ltd.
Sunrise Food Industry & Commerce
Thuy Duong Transport and Trading Service JSC
Tianjin Fulida Supply Co., Ltd.
Woo Sun Food Factory Co.
Xiamen Aukking Imp. & Exp. Co., Ltd.

Xiamen Carre Food Co., Ltd.
Xiamen Choice Harvest Imp.
Xiamen Greenland Import & Export Co., Ltd.
Xiamen Gulong Imp. & Exp. Co., Ltd.
Xiamen Gulong Import & Export Co., Ltd.
Xiamen Huamin Import & Export Co., Ltd.
Xiamen International Trade & Industrial Co., Ltd.
Xiamen Jiahua Import & Export Trading Co., Ltd.
Xiamen Lian Fang Industry Co., Ltd.
Xiamen Longstar Lighting Co., Ltd.
Xiamen Longhuai Import & Export Co., Ltd.
Xiamen Sungiven Import & Export Co., Ltd.
Zhangzhou Gangchang Canned Foods Co., Ltd.
Zhangzhou Gangchang Canned Foods Co., Ltd., Fujian
Zhangzhou Golden Banyan Foodstuffs Industrial Co., Ltd.
Zhangzhou Hongda Import & Export Trading Co.,Ltd.
Zhangzhou Long Mountain Foods Co., Ltd.
Zhangzhou Longhai Minhui Industry & Trade Co. Ltd.
Zhangzhou Tan Co. Ltd., Fujian, China
Zhangzhou Tan Co., Ltd.
Zhangzhou Tongfa Foods Industry Co., Ltd.
Zhangzhou Xiangcheng Rainbow & Greenland Food Co., Ltd.
Zhangzhou Yuxing Imp. & Exp. Trading Co., Ltd.
Zhangzhou Yuxing Import & Export Trading Co., Ltd.
Zhejiang Jinhua Jinli Mushroom Co., Ltd.
Zhejiang Iceman Food Co., Ltd.
Zhejiang Iceman Group Co., Ltd.
Zhongshan Magic Foodstuff Co., Ltd.

THE PEOPLE'S REPUBLIC OF CHINA: Small Diameter Graphite Electrodes
A-570-929 2/1/15 - 1/31/16

5-Continent Imp. & Exp. Co., Ltd.
Acclcarbon Co., Ltd.
Allied Carbon (China) Co., Limited
AMGL
Anssen Metallurgy Group Co., Ltd.
Apex Maritime (Dalian) Co., Ltd.
Asahi Fine Carbon (Dalian) Co., Ltd.
Assi Steel Co. Ltd.
Beijing International Trade Co., Ltd.
Beijing Kang Jie Kong Cargo Agent Expeditors (Tianjin Branch)
Beijing Shougang Huaxia International Trade Co. Ltd.
Beijing Xinchengze Inc.
Beijing Xincheng Sci-Tech. Development Inc.
Brilliant Charter Limited

Carbon International
Chang Cheng Chang Electrode Co., Ltd.
Chengde Longhe Carbon Factory
Chengdelh Carbonaceous Elements Factory
Chengdu Jia Tang Corp.
China Carbon Graphite Group Inc.
China Carbon Industry
China Industrial Mineral & Metals Group
China Shaanxi Richbond Imp. & Exp. Industrial Corp. Ltd.
China Xingyong Carbon Co., Ltd.
CIMM Group Co., Ltd.
Dalian Carbon & Graphite Corporation
Dalian Hongrui Carbon Co., Ltd.
Dalian Honest International Trade Co., Ltd.
Dalian Horton International Trading Co., Ltd.
Dalian LST Metallurgy Co., Ltd.
Dalian Oracle Carbon Co., Ltd.
Dalian Shuangji Co., Ltd.
Dalian Thrive Metallurgy Imp. & Exp. Co., Ltd.
Dandong Xinxin Carbon Co. Ltd.
Datong Carbon
Datong Carbon Plant
Datong Xincheng Carbon Co., Ltd.
Datong Xincheng New Material Co.
Dechang Shida Carbon Co., Ltd.
De Well Container Shipping Corp.
Dewell Group
Dignity Success Investment Trading Co., Ltd.
Double Dragon Metals and Mineral Tools Co., Ltd.
Fangda Group (The Fangda Group consists of Beijing Fangda Carbon Tech Co., Ltd., Chengdu Rongguang Carbon Co., Ltd., Fangda Carbon New Material Co., Ltd., Fushun Carbon Co., Ltd., and Hefei Carbon Co., Ltd.)
Fangda Lanzhou Carbon Joint Stock Company Co. Ltd.
Foset Co., Ltd.
Fushun Carbon Plant
Fushun Jinly Petrochemical Carbon Co., Ltd., a.k.a. Fushun Jinli Petrochemical Carbon Co., Ltd.
Fushun Oriental Carbon Co., Ltd.
GES (China) Co. Ltd.
Gold Success Group Ltd.
Grameter Shipping Co., Ltd. (Qingdao Branch)
Guangdong Highsun Yongye (Group) Co., Ltd.
Guanghan Shida Carbon Co., Ltd.
Haimen Shuguang Carbon Industry Co., Ltd.
Handan Hanbo Material Co., Ltd.
Hanhong Precision Machinery Co., Ltd.

Hebei Long Great Wall Electrode Co., Ltd.
Heico Universal (Shanghai) Distrubution Co., Ltd.
Heilongjiang Xinyuan Carbon Co. Ltd.
Heilongjiang Xinyuan Carbon Products Co., Ltd.
Heilongjiang Xinyuan Metacarbon Company Ltd.
Henan Sanli Carbon Products Co., Ltd.
Henan Sihai Import and Export Co., Ltd.
Hopes (Beijing) International Co., Ltd.
Huanan Carbon Factory
Hunan Mec Machinery and Electronics Imp. & Exp. Corp.
Hunan Yinguang Carbon Factory Co., Ltd.
Inner Mongolia QingShan Special Graphite and Carbon Co., Ltd.
Inner Mongolia Xinghe County Hongyuan Electrical Carbon Factory
Jiangsu Yafei Carbon Co., Ltd.
Jiaozuo Zhongzhou Carbon Products Co., Ltd.
Jichun International Trade Co., Ltd. of Jilin Province
Jiexiu Juyuan Carbon Co., Ltd.
Jiexiu Ju-Yuan & Coaly Co., Ltd.
Jilin Carbon Graphite Material Co., Ltd.
Jilin Carbon Import and Export Company
Jilin Songjiang Carbon Co Ltd.
Jinneng Group
Jinneng Group Co., Ltd.
Jinyu Thermo-Electric Material Co., Ltd.
JL Group
Kaifeng Carbon Company Ltd.
KASY Logistics (Tianjin) Co., Ltd.
Kimwan New Carbon Technology and Development Co., Ltd.
Kingstone Industrial Group Ltd.
L & T Group Co., Ltd.
Laishui Long Great Wall Electrode Co. Ltd.
Lanzhou Carbon Co., Ltd.
Lanzhou Carbon Import & Export Corp.
Lanzhou Hailong New Material Co.
Lanzhou Hailong Technology
Lanzhou Ruixin Industrial Material Co., Ltd.
Lianxing Carbon Qinghai Co., Ltd.
Lianxing Carbon Science Institute
Lianxing Carbon (Shandong) Co., Ltd.
Lianyungang Jianglida Mineral Co., Ltd.
Lianyungang Jinli Carbon Co., Ltd.
Liaoning Fangda Group Industrial Co., Ltd.
Liaoyang Carbon Co. Ltd.
Linghai Hongfeng Carbon Products Co., Ltd.
Linyi County Lubei Carbon Co., Ltd.
Maoming Yongye (Group) Co., Ltd.

MBI Beijing International Trade Co., Ltd.
Nantong Dongjin New Energy Co., Ltd.
Nantong Falter New Energy Co., Ltd.
Nantong River-East Carbon Co., Ltd.
Nantong River-East Carbon Joint Stock Co., Ltd.
Nantong Yangtze Carbon Corp. Ltd.
Nantong Yanzi Carbon Co. Ltd.
Oracle Carbon Co., Ltd.
Orient (Dalian) Carbon Resources Developing Co., Ltd.
Orient Star Transport International, Ltd.
Peixian Longxiang Foreign Trade Co. Ltd.
Pingdingshan Coal Group
Pudong Trans USA, Inc. (Dalian Office)
Qingdao Grand Graphite Products Co., Ltd.
Qingdao Haosheng Metals Imp. & Exp. Co., Ltd.
Quingdao Haosheng Metals & Minerals Imp. & Exp. Co., Ltd.
Qingdao Liyikun Carbon Development Co., Ltd.
Qingdao Likun Graphite Co., Ltd.
Qingdao Ruizhen Carbon Co., Ltd.
Qingdao Yijia E.T.I. I/E Co., Ltd.
Qingdao Youyuan Metallurgy Material Limited Company (China)
Ray Group Ltd.
Rex International Forwarding Co., Ltd.
Rt Carbon Co., Ltd.
Ruitong Carbon Co., Ltd.
Sea Trade International, Inc.
Seamaster Global Forwarding (China)
Shandong Basan Carbon Plant
Shandong Zibo Continent Carbon Factory
Shanghai Carbon International Trade Co., Ltd.
Shanghai GC Co., Ltd.
Shanghai Jinneng International Trade Co., Ltd.
Shanghai P.W. International Ltd.
Shanghai Shen-Tech Graphite Material Co., Ltd.
Shanghai Topstate International Trading Co., Ltd.
Shanxi Cimm Donghai Advanced Carbon Co., Ltd.
Shanxi Datong Energy Development Co., Ltd.
Shanxi Foset Carbon Co. Ltd.
Shanxi Jiexiu Import and Export Co., Ltd.
Shanxi Jinneng Group Co., Ltd.
Shanxi Yunheng Graphite Electrode Co., Ltd.
Shenyang Jinli Metals & Minerals Imp. & Exp. Co., Ltd.
Shida Carbon Group
Shijaizhuang Carbon Co., Ltd.
Shijiazhuang Huanan Carbon Factory
Sichuan 5-Continent Imp & Exp Co., Ltd.

Sichuan Dechang Shida Carbon Co., Ltd.
Sichuan GMT International Inc.
Sichuan Guanghan Shida Carbon Co., Ltd
Sichuan Shida Carbon Co., Ltd.
Sichuan Shida Trading Co., Ltd.
Sinicway International Logistics Ltd.
Sinosteel Anhui Co., Ltd.
Sinosteel Corp.
Sinosteel Jilin Carbon Co., Ltd.
Sinosteel Jilin Carbon Imp. & Exp. Co., Ltd.
Sinosteel Jilin Carbon Plant
Sinosteel Sichuan Co., Ltd.
SK Carbon
SMMC Group Co., Ltd.
Sure Mega (Hong Kong) Ltd.
Tangshan Kimwan Special Carbon & Graphite Co., Ltd.
Tengchong Carbon Co., Ltd.
T.H.I. Global Holdings Corp.
T.H.I. Group (Shanghai) Ltd.
Tianjin (Teda) Iron & Steel Trade Co., Ltd.
Tianjin Kimwan Carbon Technology and Development Co., Ltd.
Tianjin Yue Yang Industrial & Trading Co., Ltd.
Tianzhen Jintian Graphite Electrodes Co., Ltd.
Tielong (Chengdu) Carbon Co., Ltd.
UK Carbon & Graphite
United Carbon Ltd.
United Trade Resources, Inc.
Weifang Lianxing Carbon Co., Ltd.
World Trade Metals & Minerals Co., Ltd.
XC Carbon Group
Xinghe County Muzi Carbon Co., Ltd., a.k.a. Xinghe County Muzi Carbon Plant
Xinghe Xingyong Carbon Co., Ltd.
Xinghe Xinyuan Carbon Products Co., Ltd.
Xinyuan Carbon Co., Ltd.
Xuanhua Hongli Refractory and Mineral Company
Xuchang Minmetals & Industry Co., Ltd.
Xuzhou Carbon Co., Ltd.
Xuzhou Electrode Factory
Xuzhou Jianglong Carbon Products Co., Ltd.
Yangzhou Qionghua Carbon Trading Ltd.
Yixing Huaxin Imp & Exp Co. Ltd.
Youth Industry Co., Ltd
Zhengzhou Jinyu Thermo-Electric Material Co., Ltd.
Zibo Continent Carbon Factory
Zibo DuoCheng Trading Co., Ltd.
Zibo Lianxing Carbon Co., Ltd.

Zibo Wuzhou Tanshun Carbon Co., Ltd.

THE PEOPLE'S REPUBLIC OF CHINA: Uncoverd Innerspring Units
A-570-928 2/1/15 - 1/31/16

Enchant Privilege Sdn Bhd

THE PEOPLE'S REPUBLIC OF CHINA: Utility Scale Wind Towers
A-570-981 2/1/15 - 1/31/16

Alstom Sizhou Electric Power Equipment Co., Ltd.
AUSKY (Shandong) Machinery Manufacturing Co., Ltd.
AVIC International Renewable Energy Co., Ltd.
Baotou Titan Wind Power Equipment Co., Ltd.
CATIC International Trade & Economic Development Ltd.
Chengde Tianbao Machinery Co., Ltd.
Chengxi Shipyard Co., Ltd.
China WindPower Group
CleanTech Innovations Inc.
CNR Wind Turbine Co., Ltd.
CS Wind China Co., Ltd.
CS Wind Corporation
CS Wind Tech (Shanghai) Co., Ltd.
Dajin Heavy Industry Corporation
Greenergy Technology Co., Ltd.
Guangdong No. 2 Hydropower Engineering Co., Ltd.
Guodian United Power Technology Baoding Co., Ltd.
Harbin Hongguang Boiler Group Co., Ltd.
Hebei Ningqiang Group
Hebei Qiangsheng Wind Equipment Co., Ltd.
Jiangsu Baolong Tower Tube Manufacture Co., Ltd.
Jiangsu Baolong Electromechanical Mfg. Co., Ltd.
Jiangsu Taihu Boiler Co., Ltd.
Jilin Miracle Equipment Manufacturing Engineering Co., Ltd.
Jilin Tianhe Wind Power Equipment Co., Ltd. (f/k/a Jilin Mingmen Wind Power Equipment Co., Ltd.)
Jinan Railway Vehicles Equipment Co., Ltd.
Nanjing Jiangbiao Group Co., Ltd.
Nantong Dongtai New Energy Equipment Co., Ltd.
Nantong Hongbo Windpower Equipment Co., Ltd.
Ningxia Electric Power Group
Ningxia Yinxing Energy Co.
Ningxia Yinyi Wind Power Generation Co., Ltd.
Qingdao GeLinTe Environmental Protection Equipment Co., Ltd.
Qingdao Ocean Group
Qingdao Pingcheng Steel Structure Co., Ltd.

Qingdao Tianneng Electric Power Engineering Machinery Co., Ltd.
Qingdao Wuxiao Group Co., Ltd.
Renewable Energy Asia Group Ltd.
Shandong Endless Wind Turbine Technical Equipment Co., Ltd.
Shandong Zhongkai Wind Power Equipment Manufacturers, Ltd.
Shanghai Aerotech Trading International
Shanghai GE Guangdian Co., Ltd.
Shanghai Taisheng Wind Power Equipment Co., Ltd.
Shenyang Titan Metal Co., Ltd.
Sinovel Wind Group Co., Ltd.
Suihua Wuxiao Electric Power Equipment Co., Ltd.
Titan (Lianyungang) Metal Product Co., Ltd.
Titan Wind Energy (Suzhou) Co., Ltd.
Wuxiao Steel Tower Co., Ltd.
Xinjiang Huitong (Group) Co., Ltd.

Countervailing Duty Proceedings

REPUBLIC OF KOREA: Certain Cut-to-Length Carbon Quality Steel Plate
C-580-837 1/1/15 - 12/31/15

BDP International
Bookuk Steel
Daewoo International Corp.
Dongkuk Steel Mill Co., Ltd.
GS Global Corp.
Hyundai Glovis
Hyundai Mipo Dockard Co., Ltd
Hyundai Steel Co.
Hyuosung Corporation
Samsung C&T Corporation
Samsung C&T Engineering & Construction Group
Samsung C&T Trading and Investment Group
Samsung Heavy Industries
SK Networks
Sung Jin Steel Co., Ltd.

SOCIALIST REPUBLIC OF VIETNAM: Steel Wire Garment Hangers
C-552-813 1/1/15 - 12/31/15

Acton Co, Ltd.
Angang Clothes Rack Manufacture Co.
Asmara Home Vietnam
B2B Co., Ltd.

Capco Wai Shing Viet Nam Co. Ltd.
Cong Ty Co Phan Moc AO
C.T.N. International Ltd.
CTN Limited Company
Cty Tnhn Mtv Xnk My Phuoc
City Thnh San Xuat My Phuoc Long An Factory
Dai Nam Group
Dai Nam Investment JSC
Diep Son Hangers One Member Co. Ltd.
Dong Nam A Co. Ltd.
Dong Nam A Trading Co.
Est Glory Industrial Ltd.
Focus Shipping Corp.
Godoxa Vietnam Co. Ltd.
Godoxa Viet Nam Ltd.
HCMC General Import and Export Investment Joint Stock Company
Hongxiang Business and Product Co., Ltd.
Huqhu Co., Ltd.
Infinite Industrial Hanger Limited
Infinite Industrial Hanger Co. Ltd.
Ju Fu Co. Ltd.
Linh Sa Hamico Company, Ltd.
Long Phung Co. Ltd.
Lucky Cloud (Vietnam) Hanger Co. Ltd.
Minh Quang Hanger
Minh Quang Steel Joint Stock Company
Moc Viet Manufacture Co., Ltd.
Nam A Hamico Export Joint Stock Co.
Nghia Phoung Nam Productions Company
Nguyen Haong Vu Co. Ltd.
N-Tech Vina Co. Ltd.
NV Hanger Co., Ltd.
Quoc Ha Production Trading Services Co. Ltd
Quyky Co., Ltd
Quyky Group
Quyky-Yangle International Co., Ltd.
S.I.I.C.
South East Asia Hamico Exports JSC
T.J. CO. Ltd.
Tan Dihn Enterprise
Tan Dinh Enterprise
Tan Minh Textile Sewing Trading Co., Ltd.
Thanh Hieu Manufacturing Trading Co. Ltd.
The Xuong Co. Ltd.
Thien Ngon Printing Co, Ltd.
Top Sharp International Trading Limited

Triloan Hangers, Inc.
Tri-State Trading
Trung Viet My Joint Stock Company
Truong Hong Lao - Viet Joint Stock
Uac Co. Ltd.
Viet Anh Imp-Exp Joint Stock Co.
Viet Hanger
Viet Hanger Investment, LLC
Vietnam Hangers Joint Stock Company
Vietnam Sourcing
VNS
Winwell Industrial Ltd. (Hong Kong)
Yen Trang Co., Ltd.
Zownzi Hardware Hanger Factory Ltd.

THE PEOPLE'S REPUBLIC OF CHINA: Certain Crystalline Silicon Photovoltaic Products
C-570-011 6/10/14 - 12/31/15

Baoding Jiasheng Photovoltaic Technology Co. Ltd.
Baoding Tianwei Yingli New Energy Resources Co., Ltd.
Beijing Tianneng Yingli New Energy Resources Co. Ltd.
BYD (Shangluo) Industrial Co., Ltd.
Canadian Solar Inc.
Canadian Solar International, Ltd.
Canadian Solar Manufacturing (Changshu), Inc.
Canadian Solar Manufacturing (Luoyang), Inc.
Chint Solar (Zhejiang) Co., Ltd.
Changzhou Trina Solar Energy Co., Ltd.
Hainan Yingli New Energy Resources Co., Ltd.
Hefei JA Solar Technology Co., Ltd.
Hengshui Yingli New Energy Resources Co., Ltd.
Jinko Solar Co., Ltd.
Jinko Solar Import and Export Co., Ltd.
Lixian Yingli New Energy Resources Co., Ltd.
Perlight Solar Co., Ltd.
Risen Energy Co., Ltd.
Shanghai BYD Co., Ltd.
Shanghai JA Solar Technology Co., Ltd.
Shenzhen Jiawei Photovoltaic Lighting Co., Ltd.
Shenzhen Sungold Solar Co., Ltd.
Shenzhen Yingli New Energy Resources Co., Ltd.
Sunny Apex Development Limited
Tianjin Yingli New Energy Resources Co., Ltd.
Trina Solar (Changzhou) Science and Technology Co., Ltd.
Wuxi Suntech Power Co., Ltd.
Yingli Green Energy Holding Company Limited

Yingli Energy (China) Co., Ltd.
Yingli Green Energy International Trading Company Limited
Zhejiang Jinko Solar Co., Ltd.

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Alsom Sizhou Electric Power Equipment Co., Ltd.
AUSKY (Shandong) Machinery Manufacturing Co., Ltd.
AVIC International Renewable Energy Co., Ltd.
Baotou Titan Wind Power Equipment Co., Ltd.
CATIC International Trade & Economic Development Ltd.
Chengde Tianbao Machinery Co., Ltd.
Chengxi Shipyard Co., Ltd.
China WindPower Group
CleanTech Innovations Inc.
CNR Wind Turbine Co., Ltd.
CS Wind China Co., Ltd.
CS Wind Corporation
CS Wind Tech (Shanghai) Co., Ltd.
Dajin Heavy Industry Corporation
Greenergy Technology Co., Ltd.
Guangdone No. 2 Hydropower Engineering Co.,Ltd.
Guodian United Power Technology Baoding Co., Ltd.
Harbin Hongguang Boiler Group Co., Ltd.
Hebei Ningqiang Group
Hebei Qiangsheng Wind Equipment Co., Ltd.
Jiangsu Baolong Tower Tube Manufacture Co.,Ltd.
Jiangsu Baolong Electromechanical Mfg. Co., Ltd.
Jiangsu Taihu Boiler Co., Ltd.
Jilin Miracle Equipment Manufacturing Engineering Co., Ltd.
Jilin Tianhe Wind Power Equipment Co., Ltd. (f/k/a Jilin Mingmen Wind Power Equipment Co., Ltd.)
Jinan Railway Vehicles Equipment Co., Ltd.
Nanjing Jiangbiao Group Co., Ltd.
Nantong Dongtai New Energy Equipment Co., Ltd.
Ningxia Electric Power Group
Ningxia Yinyi Wind Power Generations Co., Ltd.
Qingdao GelinTe Environmental Protection Equipment Co., Ltd.
Qingdao Pingcheng Steel Structure Co., Ltd.
Qingdao Tianneng Electric Power Engineering Machinery Co., Ltd.
Qingdao Wuxiao Group Co., Ltd.
Renewable Energy Asia Group Ltd.
Shandong Endless Wind Turbine Technical Equipment Co., Ltd.
Shanghai Aerotech Trading International
Shanghai GE Guangdian Co., Ltd.

Shanghai Taisheng Wind Power Equipment Co., Ltd.
Shenyang Titan Metal Co., Ltd.
Suihu Wuxiao Electric Power Equipment Co., Ltd.
Titan (Lianyungang) Metal Product Co., Ltd.
Titan Wind Energy (Suzhou) Co., Ltd.
Wuxiao Steel Tower Co., Ltd.
Xingjiang Huitong (Group) Co., Ltd.

Suspension Agreements

None

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Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v. *United States,* 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures "gap" period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Revised Factual Information Requirements

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[12] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[13] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Final Rule,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from

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[12] *See* section 782(b) of the Act.

[13] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) ("*Final Rule*"); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: March 31, 2016.

Christian Marsh,

Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations.

[FR Doc. 2016–08002 Filed 4–6–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–840, A–549–822]

Certain Frozen Warmwater Shrimp From India and Thailand: Notice of Initiation of Antidumping Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) received requests to conduct administrative reviews of the antidumping duty (AD) orders on certain frozen warmwater shrimp (shrimp) from India and Thailand for the period February 1, 2015 through January 31, 2016. The anniversary month of these orders is February. In accordance with the Department's regulations, we are initiating these administrative reviews.

DATES: *Effective:* April 7, 2016.

FOR FURTHER INFORMATION CONTACT: Blaine Wiltse at (202) 482–6345 (India) and Dennis McClure (202) 482–5973 (Thailand), AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

During the anniversary month of February 2016, the Department received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of the AD orders on shrimp from India and Thailand from the Ad Hoc Shrimp Trade Action Committee (hereinafter, AHSTAC), the American Shrimp Processors Association (ASPA), and certain individual companies.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify the Department within 60 days of publication of this notice in the **Federal Register.** All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination in the administrative review of the AD orders on shrimp from India and Thailand, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within seven days of publication of this initiation notice and to make our decision regarding respondent selection within 21 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the applicable review. Rebuttal comments will be due five days after submission of initial comments.

In general, the Department has found that determinations concerning whether particular companies should be "collapsed" (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of these antidumping proceedings (*i.e.,* investigation, administrative review, or changed circumstances review). For any company subject to these reviews, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

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[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

Requests for Reviews of Non-Shrimp Producers/Exporters

In the 2011–2012 administrative review of shrimp from Thailand, the Department found that Kosamut Frozen Foods Co., Ltd. (Kosamut) and Tanaya International Co., Ltd./Tanaya Intl (collectively, Tanaya) were neither exporters nor producers of the subject merchandise, as defined in 19 CFR 351.213(b) and 351.102(b)(29)(i). Accordingly, we rescinded the review for these companies, pursuant to 19 CFR 351.213(d)(3).[2] Therefore, despite the fact that ASPA again requested a review of these companies, based upon that determination, we are not initiating an administrative review with respect to Kosamut or Tanaya for the current POR absent specific information that the companies at issue are exporters or producers of the subject merchandise.

In the 2013–2014 administrative review of shrimp from Thailand, the Department did not initiate a review with respect to GSE Lining Technology Co., Ltd. because the company neither produced nor exported shrimp.[3] Therefore, despite the fact that ASPA again requested a review of this company, we are not initiating an administrative review with respect to it for the current POR absent specific information that it is an exporter or producer of the subject merchandise.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the antidumping duty orders on shrimp from India and Thailand. We intend to issue the final results of these reviews not later than February 28, 2017.

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[2] *See Certain Frozen Warmwater Shrimp From Thailand: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Revocation of Order (in Part); 2011–2012*, 78 FR 42497, 42498–42499 (July 16, 2013) (*2011–2012 Thai Shrimp*).

[3] *See Certain Frozen Warmwater Shrimp From India and Thailand: Notice of Initiation of Antidumping Duty Administrative Reviews*, 79 FR 18510 (April 2, 2014).

Antidumping Duty Proceedings	Period to be Reviewed
INDIA	
Certain Frozen Warmwater Shrimp, A-533-840	2/1/15 - 1/31/16

Abad Fisheries
Adilakshmi Enterprises
Akshay Food Impex Pvt., Limited[4]
Alashore Marine Exports (P) Ltd.
Allana Frozen Foods Pvt. Ltd.
Allanasons Ltd.
AMI Enterprises
Amulya Seafoods[5]
Anand Aqua Exports
Ananda Aqua Applications / Ananda Aqua Exports (P) Limited / Ananda Foods[6]
Ananda Enterprises (India) Private Limited[7]
Angelique Intl
Anjaneya Seafoods[8, 9]
Apex Frozen Foods Private Limited[10, 11]
Aquatica Frozen Foods Global Pvt. Ltd.[12]
Arvi Import & Export
Asvini Exports
Asvini Fisheries Private Limited
Avanti Feeds Limited
Ayshwarya Seafood Private Limited
B-One Business House Pvt. Ltd.[13]
B R Traders
Baby Marine Exports
Baby Marine International
Baby Marine Sarass

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[4] AHSTAC also identified this company as Akshay Food Import & Export Pvt., Ltd.

[5] AHSTAC identified this company as Amulya Sea Foods.

[6] AHSTAC identified this company solely as Ananda Aqua Exports Private Limited.

[7] Self-requested. AHSTAC and ASPA identified this company at the same address as Ananda Aqua Exports Private Limited.

[8] ASPA identified this company three times, with two different addresses.

[9] AHSTAC identified this company as Anjaneya Sea Foods at one of the same locations ASPA used in identifying Anjaneya Seafoods.

[10] On December 11, 2012, the Department determined that Apex Frozen Foods Private Limited is the successor-in-interest to Apex Exports. *See Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp From India*, 77 FR 73619 (December 11, 2012).

[11] Self-requested and requested by AHSTAC, which also identified this company as Apex Exports.

[12] Self-requested and requested by ASPA, which identified this company twice, with two different addresses.

[13] ASHTAC identified this company as B-One Business House Private Limited, located at the same address as provided by ASPA for this company.

Baby Marine Ventures
Balasore Marine Exports Private Limited
Bay Seafoods
Bhatsons Aquatic Products
Bhavani Seafoods
Bijaya Marine Products
Blue Fin Frozen Foods Pvt. Ltd.[14]
Blue Water Foods & Exports P. Ltd.
Bluepark Seafoods Private Ltd.[15]
BMR Exports
BMR Industries Private Limited
Britto Exports
C P Aquaculture (India) Ltd.
Calcutta Seafoods Pvt. Ltd.[16]
Canaan Marine Products
Capithan Exporting Co.[17]
Cargomar Private Limited
Castlerock Fisheries Ltd.[18]
Chemmeens (Regd)
Cherukattu Industries (Marine Div.)
Choice Canning Company
Choice Trading Corporation Private Limited[19]
Coastal Aqua
Coastal Corporation Ltd.
Cochin Frozen Food Exports Pvt. Ltd.[20]
Coreline Exports[21]
Corlim Marine Exports Pvt. Ltd.
D2 D Logistics Private Limited[22]
Damco India Private Limited[23]

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[14] ASHTAC and ASPA also identified this company as Blue-Fin Frozen Foods Private Limited, with a different address.

[15] ASPA identified this company twice, with two different addresses. ASHTAC used one of the same addresses but identified this company as Bluepark Seafoods Private Limited.

[16] ASPA identified this company twice, with two different addresses. ASHTAC used one of the same addresses but identified this company as Calcutta Seafoods Private Limited.

[17] Self-requested.

[18] ASHTAC identified this company as Castlerock Fisheries Private Limited, located at the same address as provided by ASPA for this company.

[19] AHSTAC identified this company as the same location as provided by ASPA for Choice Canning Company.

[20] AHSTAC identified this company as Cochin Frozen Food Exports Private Limited, located at the same address provided by ASPA for this company.

[21] ASPA identified this company twice, with two different addresses and AHSTAC provided one of the two addresses.

[22] ASPA identified this company twice, with two different addresses and AHSTAC provided one of the two addresses.

Delsea Exports Pvt. Ltd.[24]
Devi Aquatech Private Limited
Devi Fisheries Limited / Satya Seafoods Private Limited / Usha Seafoods[25]
Devi Marine Food Exports Private Ltd. / Kader Exports Private Limited / Kader Investment and Trading Company Private Limited / Liberty Frozen Foods Pvt. Ltd. / Liberty Oil Mills Ltd. / Premier Marine Products Private Limited[26] / Universal Cold Storage Private Limited[27]
Devi Sea Foods Limited[28]
Diamond Seafoods Exports / Edhayam Frozen Foods Pvt. Ltd. / Kadalkanny Frozen Foods / Theva & Company
Esmario Export Enterprises
Exporter Coreline Exports
Falcon Marine Exports Limited / K.R. Enterprises[29]
Febin Marine Foods[30]
Five Star Marine Exports Private Limited
Forstar Frozen Foods Pvt. Ltd.[31]
Frontline Exports Pvt. Ltd.
G A Randerian Ltd.
Gadre Marine Exports[32]
Galaxy Maritech Exports P. Ltd.
Gayatri Seafoods
Geo Aquatic Products (P) Ltd.[33]
Geo Seafoods
Goodwill Enterprises
Grandtrust Overseas (P) Ltd.
GVR Exports Pvt. Ltd.[34]

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[23] ASPA identified this company twice, with two different addresses.

[24] AHSTAC identified this company as Delsea Exports Private Limited.

[25] AHSTAC limited its request to Devi Fisheries Limited.

[26] On December 2, 2014, Premier Marine Products Private Limited was found to be the successor-in-interest to Premier Marine Products. *See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp from India*, 79 FR 71384 (December 2, 2014).

[27] Several of the companies that form a part of the Liberty Group were also individually requested by ASPA.

[28] Shrimp produced and exported by Devi Sea Foods (Devi) was excluded from the AD Indian order effective February 1, 2009. *See Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Notice of Revocation of Order in Part*, 75 FR 41813, 41814 (July 19, 2010). Accordingly, we are initiating this administrative review with respect to Devi only for shrimp produced in India where Devi acted as either the manufacturer or exporter (but not both).

[29] AHSTAC limited its request to Falcon Marine Exports Limited.

[30] AHSTAC provided a different address for this company.

[31] ASPA identified this company twice, with two different addresses. AHSTAC identified this company as Forstar Frozen Foods Private Limited and provided only one of the addresses provided by ASPA.

[32] AHSTAC identified this company as Gadre Marine Export Private Limited, at the same address provided by ASPA for this company.

[33] AHSTAC identified this company as Geo Aquatic Products Private Limited.

[34] AHSTAC identified this company as GVR Aquatic Products Private Limited.

Haripriya Marine Export Pvt. Ltd.
Harmony Spices Pvt. Ltd.
HIC ABF Special Foods Pvt. Ltd.
Hindustan Lever, Ltd.
Hiravata Ice & Cold Storage
Hiravati Exports Pvt. Ltd.
Hiravati International Pvt. Ltd. (located at APM – Mafco Yard, Sector – 18, Vashi, Navi, Mumbai – 400 705, India)
Hiravati International Pvt. Ltd. (located at Jawar Naka, Porbandar, Gujarat, 360 575, India)
IFB Agro Industries Ltd.[35]
Indian Aquatic Products
Indo Aquatics
Indo Fisheries
Indo French Shellfish Company Private Limited
Innovative Foods Limited
International Freezefish Exports
Interseas
ITC Limited, International Business
ITC Ltd.[36]
Jagadeesh Marine Exports
Jaya Satya Marine Exports
Jaya Satya Marine Exports Pvt. Ltd.
Jaya Lakshmi Sea Foods Pvt. Ltd.[37]
Jinny Marine Traders
Jiya Packagings
K R M Marine Exports Ltd.
K V Marine Exports
Kalyan Aqua & Marine Exp. India Pvt. Ltd.[38]
Kalyanee Marine
Kanch Ghar
Karunya Marine Exports Private Limited[39]
Kay Kay Exports
Kay Kay Exports (Kay Kay Foods)
Kings Marine Products
KNC Agro Limited

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[35] AHSTAC identified this company as IFB Agro Industries Limited.

[36] ASPA identified this company twice, with two different addresses. AHSTAC identified this company as ITC Limited and provided only one of the addresses provided by ASPA for this company.

[37] Self-requested, and also requested by AHSTAC and ASPA, which identified this company as Jayalakshmi Sea Foods Private Limited.

[38] AHSTAC identified this company as Kalyan Aqua & Marine Exports India Private Limited at the same address provided by ASPA for this company.

[39] Self-requested and requested by ASPA, which identified this company twice, with two different addresses.

Koluthara Exports Ltd.
Landauer Ltd.
Libran Cold Storages (P) Ltd.
Magnum Estates Limited
Magnum Export
Magnum Sea Foods Limited[40]
Malabar Arabian Fisheries
Malnad Exports Pvt. Ltd.
Mangala Marine Exim India Pvt. Ltd.[41]
Mangala Seafoods[42]
Mangala Sea Products
Marine Harvest India
Meenaxi Fisheries Pvt. Ltd.
Milesh Marine Exports Private Limited
MSRDR Exports
MTR Foods
Munnangi Sea Foods Pvt. Ltd.[43]
N.C. John & Sons (P) Ltd.
Naga Hanuman Fish Packers[44]
Naik Frozen Foods Private Limited
Naik Seafoods Ltd.
Navayuga Exports
Neeli Aqua Private Limited
Nekkanti Sea Foods Limited
Nezami Rekha Sea Foods Private Limited[45]
NGR Aqua International
Nila Sea Foods Exports[46]
Nila Sea Foods Pvt. Ltd.[47]
Nine Up Frozen Foods
Nutrient Marine Foods Ltd.
Oceanic Edibles International Limited
Overseas Marine Export
Paragon Sea Foods Pvt. Ltd.
Paramount Seafoods

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[40] AHSTAC also identified this company as Magnum Sea Foods Private Limited.

[41] Self-requested and requested by AHSTAC, which identified this company as located at the address provided by ASPA for Mangala Seafoods.

[42] AHSTAC identified this company as Mangala Sea Foods (Mangala Sea Products) located at the same address provided for Mangala Marine Exim India Private Limited and the same address provided by ASPA for Mangala Seafoods.

[43] AHSTAC identified this company as Munnangi Sea Foods Private Limited, located at the same address.

[44] ASPA identified this company twice, with two different addresses.

[45] Self-requested.

[46] Self-requested.

[47] AHSTAC identified this company as Nila Sea Foods Private Limited.

Parayil Food Products Pvt. Ltd.[48]
Penver Products Pvt. Ltd.[49]
Pesca Marine Products Pvt. Ltd.
Pijikay International Exports P Ltd.
Pisces Seafood International
Premier Exports International
Premier Marine Foods[50]
Premier Seafoods Exim (P) Ltd.
R V R Marine Products Limited
Raa Systems Pvt. Ltd.
Raju Exports
Ram's Assorted Cold Storage Ltd.[51]
Raunaq Ice & Cold Storage
Raysons Aquatics Pvt. Ltd.
Razban Seafoods Ltd.
RBT Exports
RDR Exports[52]
RF Exports
Riviera Exports Pvt. Ltd.
Rohi Marine Private Ltd.
S & S Seafoods
S Chanchala Combines
S. A. Exports
S.J. Seafoods
Safa Enterprises
Sagar Foods
Sagar Grandhi Exports Pvt. Ltd.[53]
Sagar Samrat Seafoods
Sagarvihar Fisheries Pvt. Ltd.
Sai Marine Exports Pvt. Ltd.[54]
Sai Sea Foods[55]
Salvam Exports (P) Ltd.
Sanchita Marine Products Private Limited

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[48] AHSTAC identified this company as Parayil Food Products Private Limited, located at the same address.

[49] ASPA identified this company twice, with two different addresses. AHSTAC identified this company as Penver Products Private Limited and used only one of the two addresses provided by ASPA.

[50] ASPA identified this company twice, with two different addresses while AHSTAC provided only one of the addresses.

[51] ASPA identified this company twice, with two different addresses while AHSTAC provided only one of the addresses and identified the company as Ram's Assorted Cold Storage Limited.

[52] ASPA identified this company twice, and also identified it as R.D.R. Exports. AHSTAC identified this company only as R.D.R. Exports.

[53] Self-requested.

[54] ASPA identified this company twice, with two different addresses.

[55] Self-requested. Also requested by AHSTAC using the same address as provided by AHSTAC for Sai Marine Exports Private Limited.

Sandhya Aqua Exports
Sandhya Aqua Exports Pvt. Ltd.[56]
Sandhya Marines Limited[57]
Santhi Fisheries & Exports Ltd.
Sarveshwari Exports
Sawant Food Products
Sea Foods Private Limited
Seagold Overseas Pvt. Ltd.[58]
Selvam Exports Private Limited[59]
Sharat Industries Ltd.
Sharma Industries
Shimpo Exports Pvt. Ltd.[60]
Shippers Exports
Shiva Frozen Food Exports Pvt. Ltd.
Shree Datt Aquaculture Farms Pvt. Ltd.[61]
Shroff Processed Food & Cold Storage P Ltd.
Silver Seafood[62]
Sita Marine Exports
Sowmya Agri Marine Exports
Sprint Exports Pvt. Ltd.[63]
Sri Chandrakantha Marine Exports
Sri Sakkthi Cold Storage
Sri Satya Marine Exports
Sri Venkata Padmavathi Marine Foods Pvt. Ltd.
Srikanth International
Star Agro Marine Exports Private Limited
Star Organic Foods Incorporated
Sterling Foods
Sun-Bio Technology Ltd.
Sunrise Aqua Food Exports
Supran Exim Private Limited
Suryamitra Exim (P) Ltd.[64]
Suvarna Rekha Exports Private Limited

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[56] ASPA identified this company twice, with two different addresses. AHSTAC identified this company as Sandhya Aqua Exports Private Limited using one of the same addresses as provided by ASPA.

[57] ASPA identified this company twice, with two different addresses while AHSTAC provided only one address for this company.

[58] ASPA identified this company twice, with two different addresses.

[59] ASPA identified this company twice, with two different addresses while AHSTAC provided only one address for this company.

[60] AHSTAC identified this company as Shimpo Exports Private Limited.

[61] AHSTAC identified this company as Shree Datt Aquaculture Farms Private Limited.

[62] AHSTAC identified this company as Silver Sea Food.

[63] AHSTAC identified this company as Sprint Exports Private Limited.

[64] Self-requested and requested by AHSTAC, which identified this company as Suryamitra Exim Private Limited.

Suvarna Rekha Marines P Ltd.
TBR Exports Pvt Ltd.
Teekay Marine P. Ltd.
The Waterbase Ltd. [65]
Triveni Fisheries P Ltd.[66]
U & Company Marine Exports
Uniroyal Marine Exports Ltd.
Unitriveni Overseas
V V Marine Products[67]
V.S. Exim Pvt Ltd.
Vasista Marine
Veejay Impex
Veerabhadra Exports Private Limited[68]
Veronica Marine Exports Private Limited
Victoria Marine & Agro Exports Ltd.
Vinner Marine
Vishal Exports
Vitality Aquaculture Pvt., Ltd.
Wellcome Fisheries Limited
West Coast Frozen Foods Private Limited[69]
Z A Sea Foods Pvt. Ltd.

THAILAND
Certain Frozen Warmwater Shrimp, A-549-822 2/1/15 - 1/31/16

A Foods 1991 Co., Limited / May Ao Foods Co., Ltd. [70]
A. Wattanachai Frozen Products Co., Ltd.
A.P. Frozen Foods Co., Ltd.
A.S. Intermarine Foods Co., Ltd.
ACU Transport Co., Ltd.
Ampai Frozen Food Co., Ltd.
Anglo-Siam Seafoods Co., Ltd.
Apex Maritime (Thailand) Co., Ltd.
Apitoon Enterprise Industry Co., Ltd.

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[65] ASPA identified this company twice, with two different addresses while AHSTAC identified this company as The Waterbase Limited at only one of the addresses.

[66] AHSTAC identified this company as Triveni Fisheries Private Limited.

[67] AHSTAC also identified this company as VVMP.

[68] ASPA identified this company three times, with different addresses.

[69] Self-requested and also requested by ASPA, which identified this company twice, with two different addresses. AHSTAC identified this company as West Coast Frozen Foods Private Ltd. and provided one of the same addresses as ASPA.

[70] On December 1, 2010, the Department found that A Foods 1991 Co., Limited is the successor-in-interest to May Ao Company Limited. *See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp from Thailand*, 75 FR 74684 (Dec. 1, 2010).

Applied DB Ind.
Asian Seafood Coldstorage (Sriracha)
Asian Seafoods Coldstorage Public Co., Ltd. / Asian Seafoods Coldstorage (Suratthani) Co., Limited / STC Foodpak Ltd.
Assoc. Commercial Systems
B.S.A. Food Products Co., Ltd.
Bangkok Dehydrated Marine Product Co., Ltd.
C Y Frozen Food Co., Ltd.
C.P. Mdse
C.P. Merchandising Co., Ltd. / Charoen Pokphand Foods Public Co., Ltd./ Klang Co., Ltd. / Seafoods Enterprise Co., Ltd. / Thai Prawn Culture Center Co., Ltd.
C.P. Retailing and Marketing Co., Ltd.
C.P. Intertrade Co. Ltd.
Calsonic Kansei (Thailand) Co., Ltd.
Century Industries Co., Ltd.
Chaivaree Marine Products Co., Ltd.
Chaiwarut Company Limited
Charoen Pokphand Petrochemical Co., Ltd.
Chonburi LC
Chue Eie Mong Eak
Commonwealth Trading Co., Ltd.
Core Seafood Processing Co., Ltd.[71]
C.P.F. Food Products Co., Ltd.
Crystal Frozen Foods Co., Ltd.
Crystal Seafood
Daedong (Thailand) Co. Ltd.
Daiei Taigen (Thailand) Co., Ltd.
Daiho (Thailand) Co., Ltd.
Dynamic Intertransport Co., Ltd.
Earth Food Manufacturing Co., Ltd.
F.A.I.T. Corporation Limited
Far East Cold Storage Co., Ltd.
Fimex VN[72]
Findus (Thailand) Ltd.
Fortune Frozen Foods (Thailand) Co., Ltd.
Frozen Marine Products Co., Ltd.
Gallant Ocean (Thailand) Co., Ltd.[73]
Gallant Seafoods Corporation
Global Maharaja Co., Ltd.
Golden Sea Frozen Foods Co., Ltd.

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[71] ASPA identified this company twice at two different addresses.

[72] ASPA provided an address in Vietnam for this company.

[73] Self-requested and also requested by ASPA and AHSTAC, which identified this company at different addresses.

Golden Thai Imp. & Exp. Co., Ltd.
Good Fortune Cold Storage Co. Ltd.
Good Luck Product Co., Ltd.
Grobest Frozen Foods Co., Ltd.
Gulf Coast Crab Intl.
H.A.M. International Co., Ltd.
Haitai Seafood Co., Ltd.
Handy International (Thailand) Co., Ltd.[74]
Heng Seafood Limited Partnership
Heritrade
HIC (Thailand) Co., Ltd.
High Way International Co., Ltd.
I.S.A. Value Co., Ltd.
I.T. Foods Industries Co., Ltd.
Inter-Oceanic Resources Co., Ltd.
Inter-Pacific Marine Products Co., Ltd.[75]
K & U Enterprise Co., Ltd.
K Fresh
K. D. Trading Co., Ltd.
K.L. Cold Storage Co., Ltd.
KF Foods Ltd.
Kiang Huat Sea Gull Trading Frozen Food Public Co., Ltd.
Kibun Trdg.
Kingfisher Holdings Ltd.
Kitchens of the Oceans (Thailand) Company, Ltd.
Kongphop Frozen Foods Co., Ltd.
Lee Heng Seafood Co., Ltd.
Leo Transports
Li-Thai Frozen Foods Co., Ltd.
Lucky Union Foods Co., Ltd.
Magnate & Syndicate Co., Ltd.
Mahachai Food Processing Co., Ltd.[76]
Mahachai Marine Foods Co., Ltd.
Marine Gold Products Ltd.[77]
Merit Asia Foodstuff Co., Ltd.
Merkur Co., Ltd.
Ming Chao Ind Thailand
N&N Foods Co., Ltd.

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[74] ASPA and AHSTAC identified this company as different addresses.

[75] ASPA identified this company as Inter Pacific Marine Products Co., Ltd.

[76] ASPA provided two addresses for this company.

[77] Shrimp produced and exported by Marine Gold Products Ltd. (Marine Gold) were excluded from the AD Thailand order effective February 1, 2012. *See 2011-2012 Thai Shrimp*, 78 FR at 42499. Accordingly, we are initiating this administrative review with respect to Marine Gold only for shrimp produced in Thailand where Marine Gold acted as either the manufacturer or exporter (but not both).

N.R. Instant Produce Co., Ltd.
Namprik Maesri Ltd. Part.
Narong Seafood Co., Ltd.
Nongmon SMJ Products
Ongkorn Cold Storage Co., Ltd. / Thai-Ger Marine Co., Ltd.[78]
Pacific Queen Co., Ltd.
Pakfood Public Company Limited / Asia Pacific (Thailand) Co., Ltd. / Chaophraya Cold Storage Co., Ltd. / Okeanos Co., Ltd. / Okeanos Food Co., Ltd. / Takzin Samut Co., Ltd. / Thai Union Frozen Products Public Co., Ltd.[79] / Thai Union Group Public Co., Ltd. / Thai Union Seafood Co., Ltd.[80]
Pakpanang Coldstorage Public Co., Ltd.
Penta Impex Co., Ltd.
Pinwood Nineteen Ninety Nine
Piti Seafood Co., Ltd.[81]
Premier Frozen Products Co., Ltd.
Preserved Food Specialty Co., Ltd.
Queen Marine Food Co., Ltd.
Rayong Coldstorage (1987) Co., Ltd.
S&D Marine Products Co., Ltd.
S&P Aquarium
S&P Syndicate Public Company Ltd.
S. Chaivaree Cold Storage Co., Ltd.
S. Khonkaen Food Industry Public Co., Ltd. and/or S. Khonkaen Food Ind. Public
S.K. Foods (Thailand) Public Co. Limited
Samui Foods Company Limited
SB Inter Food Co., Ltd.
SCT Co., Ltd.
Sea Bonanza Food Co., Ltd.[82]
SEA NT'L CO., LTD.
Seafresh Fisheries / Seafresh Industry Public Co., Ltd.[83]
Search and Serve

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[78] AHSTAC identified this company only as Ongkorn Cold Storage Co., Ltd. but the foreign producer/exporter identified itself as Ongkorn Cold Storage Co., Ltd. and its affiliate Thai-Ger Marine Co., Ltd.

[79] On January 5, 2016, the Department found that Thai Union Group Public Co., Ltd. is the successor-in-interest to Thai Union Frozen Products Public Co., Ltd. *See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp From Thailand*, 81 FR 222 (January 5, 2016).

[80] In the 2012-2013 administrative review, the Department found that the following companies comprised a single entity: Thai Union Frozen Products Public Co. Ltd. and its affiliates, and Pakfood Public Company Limited and its affiliates. *See Certain Frozen Warmwater Shrimp From Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012-2013*, 79 FR 51306 (August 28, 2014). Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review. ASPA referred to these companies collectively as Pakfood, while AHSTAC limited its request to Pakfood Public Co., Ltd. and/or Okeanos Food Company, Ltd.

[81] AHSTAC identified this company as Piti Seafoods Co., Ltd.

[82] ASPA identified this company at two different addresses.

[83] ASPA identified this company at two different addresses.

Sethachon Co., Ltd.
Shianlin Bangkok Co., Ltd.
Shing Fu Seaproducts Development Co.
Siam Food Supply Co., Ltd.
Siam Haitian Frozen Food Co., Ltd.
Siam Intersea Co., Ltd.
Siam Marine Products Co. Ltd.
Siam Ocean Frozen Foods Co. Ltd.
Siam Union Frozen Foods
Siamchai International Food Co., Ltd.
Smile Heart Foods[84]
SMP Food Products, Co., Ltd.[85]
Southport Seafood Co., Ltd.
Star Frozen Foods Co., Ltd.
Starfoods Industries Co., Ltd.
Suntechthai Intertrading Co., Ltd.
Surapon Foods Public Co., Ltd. / Surat Seafoods Public Co., Ltd.[86]
Surapon Nichirei Foods Co., Ltd.
Suratthani Marine Products Co., Ltd.[87]
Suree Interfoods Co., Ltd.
T.S.F. Seafood Co., Ltd.
Tep Kinsho Foods Co., Ltd.
Teppitak Seafood Co., Ltd.
Tey Seng Cold Storage Co., Ltd.[88]
Thai Agri Foods Public Co., Ltd.
Thai Hanjin Logistics Co., Ltd.
Thai Mahachai Seafood Products Co., Ltd.
Thai Ocean Venture Co., Ltd.
Thai Patana Frozen[89]
Thai Royal Frozen Food Co., Ltd.
Thai Spring Fish Co., Ltd.
Thai Union Manufacturing Company Limited
Thai World Import and Export Co., Ltd.
Thai Yoo Ltd., Part.
The Siam Union Frozen Foods Co., Ltd.
The Union Frozen Products Co., Ltd. / Bright Sea Co., Ltd.[90]
Trang Seafood Products Public Co., Ltd.

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[84] AHSTAC identified this company as Smile Heart Food Co., Ltd., while APSA identified it as Smile Heart Foods Co. Ltd.

[85] ASPA identified this company three times and provided three different addresses.

[86] AHSTAC identified this company only as Surapon Foods Public Co., Ltd.

[87] ASPA identified this company at two different addresses.

[88] ASPA identified this company at two different addresses.

[89] AHSTAC identified this company as Thai Patana Frozen Co., Ltd.

[90] AHSTAC identified this company only as The Union Frozen Products Co., Ltd.

Transamut Food Co., Ltd.
Tung Lieng Tradg.
United Cold Storage Co., Ltd.
UTXI Aquatic Products Processing Company
V. Thai Food Product Co., Ltd.
Wann Fisheries Co., Ltd.
Xian-Ning Seafood Co., Ltd.
Yeenin Frozen Foods Co., Ltd.
ZAFCO TRDG

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to the administrative reviews included in this notice of initiation. Parties wishing to participate in either of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Revised Factual Information Requirements

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) other data or statements of facts; (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i) through (iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in these segments.

Any party submitting factual information in an antidumping duty proceeding must certify to the accuracy and completeness of that information.[91] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[92] The Department intends to reject factual submissions in these administrative reviews if the submitting party does not comply with applicable revised certification requirements.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping duty proceedings.[93] The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) submissions containing rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning CBP data; and (4) quantity and value questionnaire responses. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the Final Rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these administrative reviews.

These initiations and this notice are in accordance with section 751(a) of the Act and 19 CFR 351.221(c)(1)(i).

Dated: April 1, 2016.

Gary Taverman,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2016–08007 Filed 4–6–16; 8:45 am]

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[91] *See* section 782(b) of the Act.

[92] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the Final Rule, available at: *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[93] *See Extension of Time Limits: Final Rule,* 78 FR 57790 (September 20, 2013).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–843]

Certain Cold-Rolled Steel Flat Products From Brazil: Amended Preliminary Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 7, 2016, the Department of Commerce (the Department) published the preliminary determination of sales at less than fair value (LTFV) in the antidumping investigation of certain cold-rolled steel flat products from Brazil.[1] We are amending our *Preliminary Determination* to correct for a ministerial error with respect to the calculation of the dumping margin for mandatory respondent Companhia Siderurgica National (CSN). The correction to CSN's margin affects the dumping margin applicable, as adverse facts available, to Usinas Siderurgicas de Minas Gerais (Usiminas), as well as the dumping margin applicable to all other companies.

DATES: Effective Date: March 7, 2016.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Joseph Shuler, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3477 or (202) 482–1293, respectively.

SUPPLEMENTARY INFORMATION: On March 7, 2016, CSN timely filed an allegation that the Department made a significant ministerial error.[2] After reviewing the allegation, we have determined that the *Preliminary Determination* included a significant ministerial error. Therefore, we have made changes, as described below, to the *Preliminary Determination*.

Scope of Investigation

The product covered by this investigation is cold-rolled steel from Brazil. For a full description of the scope of this investigation, *see Preliminary Determination*, at Appendix I.

Significant Ministerial Error

A ministerial error is defined in 19 CFR 351.224(f) as "an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial." Further, 19 CFR 351.224(e) provides that the Department "will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination." A significant ministerial error is defined as a ministerial error, the correction of which, singly or in combination with other errors, would result in: (1) A change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination; or (2) a difference between a weighted-average dumping margin of zero or de minimis and a weighted-average dumping margin of greater than *de minimis* or vice versa.[3]

Ministerial Error Allegation

CSN alleges that the Department committed a ministerial error by double-counting its processing cost when the Department revised CSN's cost of manufacturing. Specifically, CSN contends that in recalculating CSN's cost of manufacturing, the Department double counted its home market resellers' processing costs, which significantly overstated the derived costs for the foreign like product produced by CSN and its home market reseller. The Department reviewed CSN's reporting of processing costs and we agree with CSN that this is a ministerial error in accordance with 19 CFR 351.224(f).[4] Moreover, pursuant to 19 CFR 351.224(g)(1), this error is significant because the correction of the error results in a change of at least 5 absolute percentage points, but not less than 25 percent, of the weighted-average dumping margin from the *Preliminary Determination*. Therefore, we are correcting the error alleged by CSN, and we are amending our preliminary determination accordingly.

Amended Preliminary Determination

We are amending the preliminary determination of sales at less than fair value for cold-rolled flat steel produts from Brazil to reflect the correction of a ministerial error made in the margin calculations of that determination. As a result of the correction of the ministerial error, we have also revised the dumping margins applicable to Usiminas[5] and to all other companies. The revised dumping margins are as follows:

Exporter/Producer	Weighted-average margin (percent)
Companhia Siderurgica Nacional	20.84
Usinas Siderurgicas de Minas Gerais S.A. (Usiminas)	35.43
All-Others	20.84

Suspension of Liquidation

The collection of cash deposits will be revised in accordance with sections 733(d) and (f) of the Act and 19 CFR 351.224. Because the correction of the error for CSN results in a reduced cash deposit rate for all of the respondents, the revised rates calculated for CSN, Usiminas, and companies covered by the "all others" rate will be effective retroactively to March 7, 2016, the date of publication of the *Preliminary Determination*.

Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the weighted-average amount by which the NV exceeds U.S. price, adjusted where appropriate for export subsidies, as follows: (1) The rates for CSN and Usiminas, when adjusted for export subsidies, are 16.71 and 31.61 percent, respectively; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise, less export subsidies; (3) the rate for all other producers or exporters when adjusted for export subsidies is 16.86 percent.[6] These suspension of liquidation instructions will remain in effect until further notice.

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[1] *See Certain Cold-Rolled Steel Flat Products from Brazil: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 81 FR 11754 (March 7, 2016) (*Preliminary Determination*).

[2] *See* CSN's March 7, 2016, submission.

[3] *See* 19 CFR 351.224(g)(1) and (2).

[4] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from James Maeder, Senior Director, Office I, Antidumping and Countervailing Duty Operations, dated March 28, 2016.

[5] *See* Memorandum titled "Certain Cold-Rolled Steel Flat Products from Brazil: Corroboration of a Rate Based on Adverse Facts Available," dated concurrently with this notice.

[6] *See Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From Brazil: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 80 FR 79569 (Dec. 22, 2015) and the accompanying preliminary decision memorandum, dated December 15, 2015; *see* also the All-Others Rate Memorandum, dated concurrently with this notice.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we are notifying the International Trade Commission (ITC) of our amended affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

The Department intends to disclose calculations performed in connection with this amended preliminary determination within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

This determination is issued and published in accordance with sections 733(f) and 777(i) of the Act and 19 CFR 351.224(e).

Dated: April 1, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–08010 Filed 4–6–16; 8:45 am]

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DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Open Meeting of the Commission on Enhancing National Cybersecurity

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The Commission on Enhancing National Cybersecurity will meet Thursday, April 14, 2016, from 1 p.m. until 4 p.m. Eastern Time. The primary purpose of the meeting is to discuss the goals and outcomes of the Commission's work with an emphasis on topics for the Commission to review as it develops detailed recommendations to strengthen cybersecurity in both the public and private sectors while protecting privacy, ensuring public safety and economic and national security, fostering discovery and development of new technical solutions, and bolstering partnerships between Federal, State, local, tribal and territorial governments and the private sector in the development, promotion, and use of cybersecurity technologies, policies, and best practices. All sessions will be open to the public.

DATES: The meeting will be held on Thursday, April 14, 2016, from 1 p.m. until 4 p.m. Eastern Time.

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, Herbert C. Hoover Building, U.S. Commerce Research Library Reading Room, Room 1894, located on the first floor at 15th Street and Pennsylvania Avenue NW., Washington, DC. The meeting is open to the public and interested parties are requested to contact Kevin Stine in advance of the meeting for building entrance requirements.

FOR FURTHER INFORMATION CONTACT: Kevin Stine, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2000, Gaithersburg, MD 20899–8900, telephone: (301) 975–4483, or by email at: *kevin.stine@nist.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the Commission on Enhancing National Cybersecurity ("the Commission") will meet Thursday, April 14, 2016, from 1 p.m. until 4 p.m. Eastern Time. All sessions will be open to the public. The Commission is authorized by Executive Order 13718, Commission on Enhancing National Cybersecurity.[1] The Commission was established by the President and will make detailed recommendations to strengthen cybersecurity in both the public and private sectors while protecting privacy, ensuring public safety and economic and national security, fostering discovery and development of new technical solutions, and bolstering partnerships between Federal, state, local, tribal and territorial governments and the private sector in the development, promotion, and use of cybersecurity technologies, policies, and best practices.

The agenda is expected to include the following items:

- Introductions
- Review Executive Order and Commission Charter
- Discuss proposed scope of work
- Discuss work plan for addressing scope of work
- Informational briefings
- Commission timeline
- Public comment
- Closure

Note that agenda items may change without notice. The final agenda will be posted on *http://www.csrc.nist.gov.* Seating will be available for the public and media. No registration is required to attend this meeting.

Public Participation: The Commission agenda will include a period of time, not to exceed fifteen minutes, for oral comments from the public on Thursday, April 14, 2016 (between 3:45 p.m. and 4 p.m.). Speakers will be selected on a first-come, first-served basis. Each speaker will be limited to five minutes. Questions from the public will not be considered during this period. Members of the public who are interested in speaking are requested to contact Kevin Stine at the contact information indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements. In addition, written statements are invited and may be submitted to the Commission at any time. All written statements should be directed to the Commission Executive Director, Information Technology Laboratory, 100 Bureau Drive, Stop 8900, National Institute of Standards and Technology, Gaithersburg, MD 20899–8900. Pursuant to 41 CFR 102–3.150(b), this **Federal Register** notice for this meeting is being published fewer than 15 calendar days prior to the meeting as exceptional circumstances exist. It is imperative that the meeting be held on April 14, 2016 to accommodate the scheduling priorities of the key participants, who must begin work as soon as possible in order to complete the Commission's report by December 1, 2016, as required by Executive Order 13718 section 3(e) (February 9, 2016). Notice of the meeting is also posted on the National Institute of Standards and Technology's Web site at *www.csrc.nist.gov.*

Kevin Kimball,

Chief of Staff.

[FR Doc. 2016–07954 Filed 4–6–16; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE548

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

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[1] *https://www.federalregister.gov/articles/2016/02/12/2016-03038/commission-on-enhancing-national-cybersecurity.*

Atmospheric Administration (NOAA), Commerce.

ACTION: Public meeting; notice of agenda change.

SUMMARY: The New England Fishery Management Council (Council, NEFMC) will hold a three-day meeting to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, Wednesday and Thursday, April 19, 20, and 21, 2016. It will start at 9 a.m. on April 19, and at 8:30 a.m. on both April 20th and 21st.

ADDRESSES: The meeting will be held at the Mystic Hilton Hotel, 20 Coogan Boulevard, Mystic, CT 06355; telephone: (860) 572–0731, or online at *http://hiltonmystic.com/.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492, ext. 113.

SUPPLEMENTARY INFORMATION: The original notice published on April 4, 2016 (81 FR 19136). This notice publishes an additional item to the agenda on April 21, 2016.

Agenda

Thursday, April 21, 2016

The Council has added an additional item to its existing agenda on the final meeting day of its April 19–21, 2016 meeting.

Following a lunch break scheduled for 12:30 p.m., on April 21st, the Council has added consideration of a change to the spiny dogfish trip limit. Prior to taking any action, the NEFMC will receive an overview on the Atlantic States Marine Fisheries Commission's request for the increase.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: April 4, 2016.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–07998 Filed 4–6–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; International Dolphin Conservation Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before June 6, 2016.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Daniel Studt, (562) 980–4073 or *daniel.studt@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for revision of a currently approved information collection. The chain of custody recordkeeping requirements approved under an emergency revision per an interim final rule filed on March 22, 2016 (81 FR 15444), will become a permanent part of the collection.

National Oceanic and Atmospheric Administration (NOAA) collects information to implement the International Dolphin Conservation Program Act (Act). The Act allows entry of yellowfin tuna into the United States (U.S.), under specific conditions, from nations in the International Dolphin Conservation Program that would otherwise be under embargo. The Act also allows U.S. fishing vessels to participate in the yellowfin tuna fishery in the eastern tropical Pacific Ocean (ETP) on terms equivalent with the vessels of other nations. NOAA collects information to allow tracking and verification of "dolphin-safe" and "non-dolphin safe" tuna products from catch through the U.S. market.

The regulations implementing the Act are at 50 CFR parts 216 and 300. The recordkeeping and reporting requirements at 50 CFR parts 216 and 300 form the basis for this collection of information. This collection includes permit applications, notifications, tuna tracking forms, reports, and certifications that provide information on vessel characteristics and operations in the ETP, the origin of tuna and tuna products, chain of custody recordkeeping requirements and certain other information necessary to implement the Act.

II. Method of Collection

Paper applications, other paper records, electronic and facsimile reports, and telephone calls or email messages are required from participants. Methods of submittal include transmission of paper forms via regular mail and facsimile as well as electronic submission via email or an FTP site (password protected).

III. Data

OMB Number: 0648–0387.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations; individuals or households.

Estimated Number of Respondents: 279.

Estimated Time per Response: 35 minutes for a vessel permit application; 10 minutes for an operator permit application, a notification of vessel arrival or departure, a change in permit operator; a notification of a net modification or a monthly tuna storage removal report; 30 minutes for a request for a waiver to transit the ETP without a permit (and subsequent radio reporting) or for a special report documenting the origin of tuna (if requested by the NOAA Administrator); 10 hours for an experimental fishing operation waiver; 15 minutes for a request for a Dolphin Mortality Limit; 35 minutes for written notification to request active status for a small tuna purse seine vessel; 5 minutes for written notification to request inactive status for a small tuna purse seine vessel or for written notification of the intent to transfer a tuna purse seine vessel to foreign registry and flag; 60 minutes for a tuna tracking form or for a monthly tuna receiving report; 30 minutes for IMO application or exemption request; 30 minutes for chain of custody recordkeeping reporting requirement.

Estimated Total Annual Burden Hours: 248.

Estimated Total Annual Cost to Public: $4,578.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 4, 2016.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2016–07976 Filed 4–6–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE550

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The NMFS Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, has made a preliminary determination that an exempted fishing permit application contains all of the required information and warrants further consideration. This exempted fishing permit would allow a commercial lobster fishing vessel in collaboration with the University of New England to conduct research on the injury and mortality of Atlantic cod caught as bycatch in lobster traps fished in the Gulf of Maine.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for a proposed exempted fishing permit.

DATES: Comments must be received on or before April 22, 2016.

ADDRESSES: You may submit written comments by any of the following methods:

- *Email: NMFS.GAR.EFP@noaa.gov.* Include in the subject line "Comments on 2016 UNE Atlantic Cod Bycatch from Lobster Traps EFP."
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "2016 UNE Atlantic Cod Bycatch from Lobster Traps EFP."

FOR FURTHER INFORMATION CONTACT: Reid Lichwell, Fishery Management Specialist, (978) 282–9112.

SUPPLEMENTARY INFORMATION: The University of New England (UNE) submitted a complete application for an Exempted Fishing Permit (EFP) to assess injury and mortality of cod caught as bycatch in lobster traps fished in the Gulf of Maine (GOM). This EFP would exempt a commercial lobster fishing vessel from the prohibition on landing Northeast (NE) multispecies established under the Northeast Multispecies Fishery Management Plan (FMP) at 50 CFR 648.14(k)(1)(i)(B). The vessel would also be exempt from the possession limits and minimum size requirements specified in 50 CFR part 648, subparts B and D through O. The exemption from the prohibition on landing NE multispecies would allow the vessel to retain cod to evaluate injuries resulting from their catch. The possession limit and minimum size requirement exemptions would allow the vessel's crew to tag cod with acoustic transmitters and collect biological data before cod and other bycaught species are returned to sea. The EFP would allow these exemptions from May through October 2016. The data from this study are designed to provide fisheries managers information on cod discard mortality associated with the GOM lobster fishery. The NMFS Bycatch Reduction Engineering program funds this project.

If the EFP is approved, the participating lobster vessel would deploy 400 traps in statistical area 513. Lobster traps would be hauled twice a week for 24 weeks, with a soak time of approximately 48–72 hours for each trip. The crew of the vessel would collect viability data for cod bycatch as outlined in the research proposal. A subsample (n = 100) of cod would be tagged with acoustic transmitters and released. The tagged cod would be monitored by an array of 30 acoustic receivers to evaluate acute and delayed mortality in their natural environment. Approximately 10 cod would be retained and landed each month to assess barotrauma and other physical effects of their capture. UNE research staff would accompany each trip in which cod are tagged or retained as part of the study. The vessel will retain the previously mentioned 10 cod per sampling month and all legal lobsters will be retained and sold. All other animals captured in the traps would be returned to the sea as soon as possible.

If approved, the applicants may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 4, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–07984 Filed 4–6–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2016–HQ–0003]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Department of the Air Force proposes to alter a system of records notice, System Identifier, F036 AFMC D, entitled "Education/Training

Management System (ETMS)" to collect education and training information that will support the needs of the education and training communities located at Headquarters Air Force Materiel Command and subordinate units.

DATES: Comments will be accepted on or before May 9, 2016. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

* *Mail:* ODCMO, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Attn: Mailbox 24, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. LaDonne L. White, Department of the Air Force Privacy Office, Office of Warfighting Integration and Chief Information Officer, ATTN: SAF/CIO A6, 1800 Air Force Pentagon, Washington, DC 20330–1800, or by phone at (571) 256–2515.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Division Web site at *http://dpcld.defense.gov/*. The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on March 28, 2016, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: April 1, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F036 AFMC D

SYSTEM NAME:

Education/Training Management System (ETMS) (June 11, 1997, 62 FR 31793)

* * * * *

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with "Education and Training Management System (ETMS)"

SYSTEM LOCATION:

Delete entry and replace with "Headquarters Air Force Materiel Command (HQ AFMC), 4375 Chidlaw Road, Wright-Patterson Air Force Base, Ohio 45433–5006."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Air Force active duty personnel and civilian employees, National Guard, and Reserve personnel."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Name, Social Security Number (SSN), date of birth, home address, personal telephone numbers, personal email address, degree earned and year, courses taken, date of hire and employment end date, supervisory level attained, pay plan and grade, series, rank, Air Force Specialty Code, and duty title. Acquisition license history to include occupational certifications, acquisition level and date attained. Training course dates, course codes, course titles, and hours completed."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 8013, Secretary of the Air Force; Air Force Materiel Command Instruction (AFMCI) 36–401, Employee Training and Development; Title 5 U.S.C. Chapter 41: Training; (EEO) Act of 1972 (PL 92–261); and E.O. 9397 (SSN), as amended."

PURPOSE(S):

Delete entry and replace with "To collect education and training information that will support the needs of the education and training communities located at Headquarters Air Force Materiel Command and subordinate units."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses set forth at the beginning of the Air Force complilation of system of records notices may apply to this system. The complete list of DoD blanket routine uses can be found online at: *http://dpcld.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx.*"

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete entry and replace with "Electronic storage media."

RETRIEVABILITY:

Delete entry and replace with "Name and/or SSN".

SAFEGUARDS:

Delete entry and replace with "Records are maintained in a secure facility on the installation; physical entry is restricted by security guards and presentation of authenticated identification badges at entry control points, and cipher locks and key cards for access into buildings. Records are accessed by the custodian of the record system and by person(s) responsible for servicing the record system in the performance of their official duties using Common Access Cards. Persons are properly screened and cleared for access. The information is protected by using user profiles, passwords, and encryption.

User profiles are role-based and ensure that only data accessible to the individual's role will appear on the screen."

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are destroyed 10 years after the individual completes or discontinues a training course, when superseded, obsolete, or training is completed and posted to the employees official personnel record. Computer records are destroyed by erasing, deleting, or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Directorate of Manpower, Personnel, and Services, HQ AFMC/A1DS, Headquarters Air Force Materiel

Command (HQ AFMC), 4375 Chidlaw Road, Wright-Patterson Air Force Base, Ohio 45433–5006."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to Directorate of Manpower, Personnel, and Services, HQ AFMC/A1DS, Headquarters Air Force Materiel Command (HQ AFMC), 4375 Chidlaw Road, Wright-Patterson Air Force Base, Ohio 45433–5006."

For verification purposes, individual should provide their name, SSN, and any details which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

IF EXECUTED OUTSIDE THE UNITED STATES:

'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written requests to Directorate of Manpower, Personnel, and Services, HQ AFMC/A1DS, Headquarters Air Force Materiel Command (HQ AFMC), 4375 Chidlaw Road, Wright-Patterson Air Force Base, Ohio 45433–5006.

For verification purposes, individual should provide their name, SSN, and any details which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

IF EXECUTED OUTSIDE THE UNITED STATES:

'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'."

CONTESTING RECORDS PROCEDURES:

Delete entry and replace with "The Air Force rules for accessing records and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332, The Air Force Privacy and Civil Liberties Program; 32 CFR part 806b, and may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Individual, Military Personnel Data System (MILPDS), Defense Civilian Personnel Data System (DCPDS), Air Force Directory Service (AFDS), and Automated Distributed Learning System (ADLS)

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[FR Doc. 2016–07953 Filed 4–6–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2016–HQ–0012]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Department of the Army proposes to alter a system of records notice, A0690–700 DAPE, Grievance Records. This system is used to review allegations, obtain facts, conduct hearings when appropriate, and render decision.

DATES: Comments will be accepted on or before May 9, 2016. This proposed action will be effective on the day following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* ODCMO, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Attn: Mailbox 24, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy Rogers, Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905 or by calling (703) 428–7499.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Division Web site at *http://dpcld.defense.gov/.*

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, as amended, were submitted on March 28, 2016, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: April 4, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0690–700 DAPE

SYSTEM NAME:

Grievance Records (August 30, 1993, 58 FR 45488)

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Servicing civilian personnel offices for each Army activity or installation. Official mailing addresses of installations and activities are published as an appendix to the Army's compilation of systems of records notices."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Current or former employees of the Department of the Army who have submitted grievances in accordance with the regulations of the Office of Personnel Management (5 CFR part 771) or through a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Name, date of birth, approximate date of closing the case and kind of action taken, organization and activity where employed at time grievance was initiated; copies of documents in the employee's possession related to the grievance, including statements of witnesses, reports of interviews and hearings, examiner's finding and recommendations, copy of the original and final decisions, and related correspondence and exhibits; and the name, address and telephone number of the employee's representative, if any."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 3013, Secretary of the Army; 5 CFR 771, Agency Administrative Grievance System; Department of Defense Instruction 1400.25, Volume 771, DoD Civilian Personnel Management System: Administrative Grievance System."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system. The complete list of DoD Blanket Routine Uses can be found online at: *http://dpcld.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx.*"

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

STORAGE:

Delete entry and replace with "Paper records and electronic storage media."

* * * * *

SAFEGUARDS:

Delete entry and replace with "All records are maintained in a secured office and building. Lockable file cabinets are used. Access to computerized data is restricted by use of common access cards (CACs) and is accessible only by users with an authorized account. The system and electronic backups are maintained in controlled facilities that employ physical restrictions and safeguards such as security guards, identification badges, key cards, and locks."

RETENTION AND DISPOSAL:

Delete entry and replace with "Closed cases are retired at the end of the calendar year, and destroyed by shredding or burning four years after the calendar year cutoff date."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, 4000 Army Pentagon, Washington, DC 20310–4000.

Individuals should provide the name, date of birth, approximate date of closing the case and kind of action taken, organization and activity where employed at time grievance was initiated, and signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).' "

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, 4000 Army Pentagon, Washington, DC 20310–4000.

Individual should provide the name, date of birth, approximate date of closing the case and kind of action taken, organization and activity where employed at time grievance was initiated, and signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).' "

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in 32 CFR part 505, Army Privacy Program; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "From the individual on whom the record is maintained; testimony of witnesses; and related correspondence."

* * * * *

[FR Doc. 2016–07962 Filed 4–6–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2016–HQ–0013]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to add a new System of Records.

SUMMARY: The Department of the Army proposes to add a new system of records, A0 1000.21, OAA DoD, entitled "Visa Passport Automated System (VPAS)," to track and provide real time status on the processing of no-fee passport and visa applications for all military and government civilian personnel and eligible dependent family members.

DATES: Comments will be accepted on or before May 9, 2016. This proposed action will be effective the day following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* ODCMO, Directorate for Oversight and Compliance, 4800 Mark

Center Drive, Attn: Mailbox 24, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy Rogers, Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22315–3827 or by phone at 703–428–7499.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Division Web site at *http://dpcld.defense.gov/.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on March 28, 2016, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: April 4, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0 1000.21, OAA DoD

SYSTEM NAME:

Visa Passport Automated System (VPAS).

SYSTEM LOCATION:

Logistics Services Washington (LSW), 9301 Chapek Road, Bldg. 1458, Fort Belvoir, VA 22060–1298.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This applies to all U.S. citizen military personnel (active duty and reserve) and civilian employees and their family members eligible for a no-fee passport and/or visa. Eligibility is determined by U.S. citizenship and passport or visa requirements outlined in the DoD Foreign Clearance Guide. Family members must be authorized to accompany the sponsor on official travel orders.

CATEGORIES OF RECORDS IN THE SYSTEM:

The following information is recorded in the system: Full name, date of birth, place of birth, sponsor's name and Social Security Number (SSN), military rank/civilian grade, current home address, email address, the destination, the travel date, the no-fee passport number, issue and expiration date, the purpose of travel, assignment type and duration of assignment, and date the passport is required.

FAMILY MEMBER INFORMATION:

Full name, date of birth, place of birth, home address, home telephone number, and office telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 113, Secretary of Defense; DoD 1000.21–R, Passport and Passport Agent Services Regulation; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

The purpose of this system is to track and provide real time status on the processing of no-fee passport and visa applications for all U.S. citizen military personnel (active duty-reserve) and civilian employees and their family members eligible for a no-fee passport.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of State for the issuance of a no-fee passport, a Status of Forces Agreement (SOFA) stamp.

To Foreign Embassies to obtain a foreign entry visa.

To a Federal, State, local government or foreign agency as a routine use in response to such an agency's request for information arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, if necessary, and only to the extent necessary, to enable such agency to discharge its responsibilities of enforcing or implementing the statute.

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system. The complete list of DoD blanket routine uses can be found online at: *http://dpcld.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media and paper records.

RETRIEVABILITY:

Full name, date of birth, passport number, sponsor's SSN, and telephone number.

SAFEGUARDS:

Records are kept in a secure and controlled area. Access to the system is CAC protected and is restricted to authorized personnel. The application is scanned for vulnerabilities by the Army/OAA/ITA Enterprise Information & Mission Assurance Organization.

RETENTION AND DISPOSAL:

Disposition pending until the National Archives and Records Administration has approved retention and disposition of these records, treat as permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Division Chief, Logistics Services Washington, Travel Services Division, 9301 Chapek Road, Bldg. 1458, Fort Belvoir, VA 22060–1298.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Logistics Services Washington (LSW), 9301 Chapek Road, Bldg. 1458, Fort Belvoir, VA 22060–1298.

The requester should provide full name, mailing address, date of birth, passport number, sponsor's SSN, telephone number, email, and signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves, contained in this system should address written inquiries to Director, Logistics Services Washington (LSW), 9301 Chapek Road, Bldg. 1458, Fort Belvoir, VA 22060–1298.

The requester should provide full name, mailing address, date of birth, passport number, sponsor's SSN, telephone number, email, and signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

CONTESTING RECORD PROCEDURES:

The Army's rule for accessing records, contesting contents, and appealing initial agency determinations are contained in 32 CFR part 505, Army Privacy Program or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2016–07975 Filed 4–6–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[OMB Control No. 0704–0216; Docket Number DARS–2016–0012]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement Part 228, Bonds and Insurance, and Related Clauses in DFARS 252.228

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection under Control Number 0704–0216 for use through August 31, 2016. DoD is proposing that OMB extend its approval for use for three additional years.

DATES: DoD will consider all comments received by June 6, 2016.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0216, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0216 in the subject line of the message.
- *Fax:* (571) 372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Christopher Stiller, OUSD(AT&L)DPAP/DARS, Rm. 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Stiller, at 571–372–6176. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html.* Paper copies are available from Mr. Christopher Stiller, OUSD(AT&L)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 228, Bonds and Insurance, and Related Clauses at 252.228; OMB Control Number 0704–0216.

Needs and Uses: DoD uses the information obtained through this collection to determine (1) the allowability of a contractor's costs of providing war-hazard benefits to its employees; (2) the need for an investigation regarding an accident that occurs in connection with a contract; and (3) whether a non-Spanish contractor performing a service or construction contract in Spain has adequate insurance coverage.

Affected Public: Businesses or other for-profit and not-for- profit institutions.

Number of Respondents: 120.

Responses per Respondent: 1.

Annual Responses: 120.

Average Burden per Response: Approximately 3.88 hours.

Annual Burden Hours: 466.

Reporting Frequency: On Occasion.

Summary of Information Collection: The clause at DFARS 252.228–7000, Reimbursement for War-Hazard Losses, requires the contractor to provide notice and supporting documentation to the contracting officer regarding potential claims, open claims, and settlements providing war-hazard benefits to contractor employees.

The clause at DFARS 252.228–7005, Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles, requires the contractor to report promptly to the administrative contracting officer all pertinent facts relating to each accident involving an aircraft, missile, or space launch vehicle being manufactured, modified, repaired, or overhauled in connection with the contract.

The clause at DFARS 252.228–7006, Compliance with Spanish Laws and Insurance, requires the contractor to provide the contracting officer with a written representation that the contractor has obtained the required types of insurance in the minimum amounts specified in the clause, when performing a service or construction contract in Spain.

Amy G. Williams,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2016–07935 Filed 4–6–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket DARS–2015–0059]

Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by May 9, 2016.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Information Collection in Support of the Defense Federal Acquisition Regulation Supplement (DFARS) Part 242; Contract Administration and Audit Services, and related clauses in DFARS part 252; OMB Control Number 0704–0250.

Affected Public: Businesses or other for-profit, and not-for-profit institutions.

Type of Request: Extension.

Number of Respondents: 7,418.

Responses per Respondent: 12.8.

Annual Responses: 94,963.

Average Burden per Response: Approximately 2.02 hours.

Annual Burden Hours: 192,372.

Reporting Frequency: On occasion.

Needs and Uses: The Government requires this information in order to perform its contract administration functions. DoD uses the information as follows:

a. The information required by DFARS subpart 242.11 is used by contract administration offices to monitor contract progress, identify factors that may delay contract performance, and to ascertain potential contract delinquencies.

b. The information required by DFARS 252.242–7004 is used by contracting officers to determine if contractor material management and accounting systems conform to established DoD standards.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: Publication Collections Program, WHS/ESD Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Amy G. Williams,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2016–07934 Filed 4–6–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Higher Initial Maximum Uniform Allowance Rate

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), Department of Defense.

ACTION: Notice; request for comments.

SUMMARY: The Department of Defense (DoD or "the Department"), is proposing to establish a higher initial maximum uniform allowance to procure and issue uniform items for uniformed security guard personnel. This proposal is pursuant to the authority granted to DoD by section 591.104 of title 5, Code of Federal Regulations (CFR), which states that an agency may establish one or more initial maximum uniform allowance rates greater than the Governmentwide maximum uniform allowance rate established under 5 CFR 591.103.

DATES: Comments must be received on or before May 9, 2016.

ADDRESSES: Address all comments concerning this notice to Cheryl A. Opere, Pay Team, Defense Civilian Personnel Advisory Service, Department of Defense, 4800 Mark Center Drive, Suite 05J25, Alexandria, VA 22350–1100.

FOR FURTHER INFORMATION CONTACT: Cheryl Opere, 571–372–1682.

SUPPLEMENTARY INFORMATION: The Department is proposing to implement a higher initial maximum uniform allowance to procure and issue uniform items for uniformed security guard personnel. This is being established in accordance with 5 CFR 591.104, which states that an agency may establish one or more initial maximum uniform allowance rates greater than the Governmentwide maximum uniform allowance rate established under 5 CFR 591.103.

The current $800.00 limit has become inadequate to maintain the uniform standards and professional image expected of Federal uniformed security guards. The uniform items for uniformed security guard personnel include the following items or similar items such as: Winter gloves; battle dress uniform pants and blouses; cold weather and light weight duty jackets; duty sweaters; dress duty trousers; short sleeve summer and long sleeve winter duty dress shirts; jacket and pants rain gear; felt hats; duty caps; high gloss duty shoes; leather duty boots; duty ties; heavy duty battle dress uniform duty coats; cloth uniform insignia patches and cloth uniform badges. The average total uniform cost for the listed items is $1,800.00. Based on these current costs, the Department is proposing to increase the initial maximum uniform allowance for uniformed police personnel to $1,800.00. The number of uniformed security guard personnel affected by this change in the Department would be approximately 3,400 employees. The proposed effective date of this higher initial maximum uniform allowance rate is April 1, 2016.

Dated: April 4, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–07963 Filed 4–6–16; 8:45 am]

BILLING CODE 5001–06–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Notice

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of the Government in the Sunshine Act (5 U.S.C. 552b), and the Defense Nuclear Facilities Safety Board's (Board) regulations implementing the Government in the Sunshine Act, notice is hereby given of the Board's closed meeting described below.

DATES: 2:00 p.m.–3:00 p.m., April 8, 2016.

ADDRESSES: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mark Welch, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2901, (800) 788–4016. This is a toll-free number.

SUPPLEMENTARY INFORMATION: The meeting will be closed to the public. No participation from the public will be considered during the meeting.

Status

Closed. During the closed meeting, the Board Members will discuss issues dealing with potential Recommendations to the Secretary of Energy. The Board is invoking the exemption to close a meeting described in 5 U.S.C. 552b(c)(3) and (9)(B) and 10 CFR 1704.4(c) and (h). The Board has determined that it is necessary to close the meeting since conducting an open meeting is likely to disclose matters that are specifically exempted from disclosure by statute, and/or be likely to significantly frustrate implementation of a proposed agency action. In this case, the deliberations will pertain to potential Board Recommendations which, under 42 U.S.C. 2286d(b) and (h)(3), may not be made publicly available until after they have been received by the Secretary of Energy or the President, respectively.

Matters To Be Considered: The meeting will proceed in accordance with the closed meeting agenda which is posted on the Board's public Web site at *www.dnfsb.gov.* Technical staff may present information to the Board. The Board Members are expected to conduct deliberations regarding potential Recommendations to the Secretary of Energy.

Dated: April 4, 2016.

Joyce L. Connery,

Chairman.

[FR Doc. 2016–08086 Filed 4–5–16; 11:15 am]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Innovative Approaches to Literacy Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

Overview Information: Innovative Approaches to Literacy (IAL) Program.

Notice inviting applications for new awards for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215G.

DATES: *Applications Available:* April 7, 2016.

Deadline for Transmittal of Applications: May 9, 2016.

Deadline for Intergovernmental Review: July 6, 2016.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The IAL program supports high-quality programs designed to develop and improve literacy skills for children and students from birth through 12th grade in high-need local educational agencies (LEAs) and schools. The U.S. Department of Education (Department) intends to support innovative programs that promote early literacy for young children, motivate older children to read, and increase student achievement by using school libraries as partners to improve literacy, distributing free books to children and their families, and offering high-quality literacy activities.

The IAL program supports the implementation of high-quality plans for childhood literacy activities and book distribution efforts that are supported by evidence of strong theory.

Priorities: This notice contains one absolute priority and three competitive preference priorities. The absolute priority is from the notice of final priorities, requirement, and definitions for this program (IAL NFP) published in the **Federal Register** on June 17, 2014 (79 FR 34428). Competitive Preference Priorities 1 and 2 are from the Department's notice of final supplemental priorities and definitions for discretionary grant programs (Supplemental Priorities), published in the **Federal Register** on December 10, 2014 (79 FR 73425). Competitive Preference Priority 3 is from the IAL NFP.

Absolute Priority: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

High-Quality Plan for Innovative Approaches to Literacy That Include Book Distribution, Childhood Literacy Activities, or Both, and That Is Supported, at a Minimum, by Evidence of Strong Theory.

To meet this priority, applicants must submit a plan that is supported by evidence of strong theory, including a rationale for the proposed process, product, strategy, or practice and a corresponding logic model.

The applicant must submit a plan with the following information:

(a) A description of the proposed book distribution, childhood literacy activities, or both, that are designed to improve the literacy skills of children and students by one or more of the following—

(1) Promoting early literacy and preparing young children to read;

(2) Developing and improving students' reading ability;

(3) Motivating older children to read; and

(4) Teaching children and students to read.

(b) The age or grade spans of children and students from birth through 12th grade to be served.

(c) A detailed description of the key goals, the activities to be undertaken, the rationale for those activities, the timeline, the parties responsible for implementing the activities, and the credibility of the plan (as judged, in part, by the information submitted as evidence of strong theory); and

(d)(i) A description of how the proposed project is supported by strong theory; and

(ii) The corresponding logic model.

Competitive Preference Priorities: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award an additional five points per priority to an application that meets Competitive Preference Priorities 1–3, for a total of 15 possible points.

These priorities are:

Competitive Preference Priority 1—Leveraging Technology To Support Instructional Practice and Professional Development. (5 points)

Projects that are designed to leverage technology through using high-speed Internet access and devices to increase students' and educators' access to high-quality accessible digital tools, assessments, and materials, particularly open educational resources.

Competitive Preference Priority 2—Improving Early Learning and Development Outcomes. (5 points)

Projects that are designed to improve early learning and development outcomes across one or more of the essential domains of school readiness for children from birth through third grade (or for any age group within this range) through a focus on one or more of the following:

(a) Increasing access to high-quality early learning and development programs and comprehensive services, particularly for children with high needs.

(b) Improving the quality and effectiveness of the early learning workforce so that early childhood educators, including administrators, have the knowledge, skills, and abilities necessary to improve young children's health, social-emotional, and cognitive outcomes.

(c) Sustaining improved early learning and development outcomes throughout the early elementary school years.

Competitive Preference Priority 3—Serving Rural Local Educational Agencies (LEAs). (5 points)

To meet this priority, an applicant must propose a project designed to provide high-quality literacy programming, or distribute books, or both, to students served by a rural LEA.

Definitions: The following definitions are from the Supplemental Priorities, the IAL NFP, and 34 CFR 77.1(c).

Children with high needs means children from birth through kindergarten entry who are from low-income families or otherwise in need of special assistance and support, including children who have disabilities or developmental delays; who are English learners; who reside on "Indian lands" as that term is defined by section 8013(7) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB); who are migrant, homeless, or in foster care; and who are other children as identified by the State.

Essential domains of school readiness means the domains of language and literacy development, cognition and general knowledge (including early mathematics and early scientific development), approaches toward learning (including the utilization of the arts), physical well-being and motor development (including adaptive skills), and social and emotional development.

Evidence of promise means there is empirical evidence to support the theoretical linkage(s) between at least one critical component and at least one relevant outcome presented in the logic model for the proposed processes, products, strategies, or practices. Specifically, evidence of promise means the conditions in both paragraphs (i) and (ii) of this section are met:

(i) There is at least one study that is a—

(A) Correlational study with statistical controls for selection bias;

(B) Quasi-experimental design study that meets the What Works Clearinghouse Evidence Standards with reservations; or

(C) Randomized controlled trial that meets the What Works Clearinghouse Evidence Standards with or without reservations.

(ii) The study referenced in paragraph (i) of this definition found a statistically significant or substantively important (defined as a difference of 0.25 standard deviations or larger), favorable association between at least one critical component and one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice.

High-need local educational agency (High-need LEA) means—

(i) Except for LEAs referenced in paragraph (ii), an LEA in which at least 25 percent of the students aged 5–17 in the school attendance area of the LEA are from families with incomes below the poverty line, based on data from the U.S. Census Bureau's Small Area Income and Poverty Estimates for school districts for the most recent income year (Census list).

(ii) For an LEA that is not included on the Census list, such as a charter school LEA, an LEA for which the State educational agency (SEA) determines, consistent with the manner described under section 1124(c) of the ESEA, as amended by NCLB, in which the SEA determines an LEA's eligibility for Title I allocations, that 25 percent of the students aged 5–17 in the LEA are from families with incomes below the poverty line.

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (*i.e.*, the active "ingredients" that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

National not-for-profit organization (NNP) means an agency, organization, or institution owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity. In addition, it means, for the purposes of this program, an organization of national scope that is supported by staff or affiliates at the State and local levels, who may include volunteers, and that has a demonstrated history of effectively developing and implementing literacy activities.

Note: A local affiliate of an NNP does not meet the definition of NNP. Only a national agency, organization, or institution is eligible to apply as an NNP.

Open educational resources means teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that permits their free use and repurposing by others.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental design by identifying a comparison group that is similar to the treatment group in important respects. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards with reservations (but not What Works Clearinghouse Evidence Standards without reservations).

Randomized controlled trial means a study that employs random assignment of, for example, students, teachers, classrooms, schools, or districts to receive the intervention being evaluated (the treatment group) or not to receive the intervention (the control group). The estimated effectiveness of the intervention is the difference between the average outcomes for the treatment group and for the control group. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards without reservations.

Relevant outcome means the student outcome(s) (or the ultimate outcome if not related to students) the proposed process, product, strategy, or practice is designed to improve; consistent with the specific goals of a program.

Rural local educational agency (Rural LEA) means an LEA that is eligible under the Small Rural School Achievement program or the Rural and Low-Income School program authorized under Title VI, Part B of the ESEA, as amended by NCLB, at the time of application. (IAL NFP)

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

What Works Clearinghouse evidence standards means the standards set forth in the What Works Clearinghouse Procedures and Standards Handbook (Version 3.0, March 2014), which can be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

Program Authority: Sections 5411–5413 of the ESEA, as amended by NCLB; Title III of Division H of Pub. L. 114–113, the Consolidated Appropriations Act, 2016.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and

Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations in 34 CFR part 299. (e) The Supplemental Priorities. (f) The IAL NFP.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $26,475,715.00.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2017 from the list of unfunded applications from this competition.

Estimated Range of Awards to LEAs and Consortia of LEAs: $175,000 to $750,000 (annually).

Estimated Average Size of Awards to LEAs and Consortia of LEAs: $500,000 (annually).

Estimated Number of Awards to LEAs and Consortia of LEAs: 30.

Estimated Range of Awards to NNPs, Consortia of NNPs, and Consortia of NNPs and LEAs: $1,500,000 to $5,000,000 (annually).

Estimated Average Size of Awards to NNPs, Consortia of NNPs, and Consortia of NNPs and LEAs: $3,000,000 (annually).

Estimated Number of Awards to NNPs, Consortia of NNPs, and Consortia of NNPs and LEAs: 2–6.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

III. Eligibility Information

1. *Eligible Applicants:* To be considered for an award under this competition, an applicant must:

(a) Be one of the following:

(1) A high-need LEA (as defined in this notice);

(2) An NNP (as defined in this notice) that serves children and students within the attendance boundaries of one or more high-need LEAs;

(3) A consortium of NNPs that serves children and students within the attendance boundaries of one or more high-need LEAs;

(4) A consortium of high-need LEAs; or

(5) A consortium of one or more high-need LEAs and one or more NNPs that serves children and students within the attendance boundaries of one or more high-need LEAs.

(b) Coordinate with school libraries in developing project proposals.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet, from the Education Publications Center (ED Pubs), or from the program office. To obtain a copy via the Internet, use the following address: *www2.ed.gov/programs/innovapproaches-literacy/applicant.html.*

To obtain a copy from ED Pubs, write, fax, or call: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this program as follows: CFDA number 84.215G.

To obtain a copy from the program office, write, call, or send an email to the following person: Beth Yeh, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E332, Washington, DC 20202–6200. Telephone: (202) 205–5798 or by email: *beth.yeh@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

2. a. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to no more than 25 pages, using the following standards:

- A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to the cover sheet; eligibility information; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, the logic model, or the letters of support. However, the page limit does apply to all of the application narrative section.

Our reviewers will not read any pages of your application that exceed the page limit.

Note: The applicant should include, as an attachment, the logic model used to address paragraph (d)(ii) of the absolute priority.

b. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the IAL program, an application may include business information that the applicant considers proprietary. In 34 CFR 5.11 we define "business information" and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under "Other Attachments Form," please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Submission Dates and Times: Applications Available:* April 7, 2016

Deadline for Transmittal of Applications: May 9, 2016.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: July 6, 2016.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Innovative Approaches to Literacy Program, CFDA number 84.215G, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the IAL program at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.215, not 84.215G).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through Grants.gov, please refer to the Grants.gov Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*

- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason, it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. This notification indicates receipt by Grants.gov only, not receipt by the Department. Grants.gov will also notify you automatically by email if your application met all the Grants.gov validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by Grants.gov, the Department will retrieve your application from Grants.gov and send you an email with a unique PR/Award number for your application. These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by Grants.gov, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and, provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system;

and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Beth Yeh, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E335, Washington, DC 20202–6200. Telephone: (202) 205–5798 or by email: *beth.yeh@ed.gov.*

Your paper application must be submitted in accordance with the mail or hand-delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,
Application Control Center, Attention:
(CFDA Number 84.215G), LBJ Basement
Level 1, 400 Maryland Avenue SW.,
Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215G), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. The maximum score for all selection criteria is 100. The maximum possible score for each selection criterion is indicated in parentheses. The selection criteria for this competition are as follows:

(a) *Significance* (10 points). The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

(b) *Quality of the project design* (20 points). The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (4 points)

(ii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population. (4 points)

(iii) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students. (4 points)

(iv) The extent to which performance feedback and continuous improvement are integral to the design of the proposed project. (4 points)

(v) The extent to which the proposed project is supported by evidence of promise. (4 points)

(c) *Quality of project services* (25 points). The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers:

(i) The quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (10 points)

(ii) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services. (10 points)

(iii) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services. (5 points)

(d) *Adequacy of resources* (10 points). The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers:

(i) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (5 points)

(ii) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits. (5 points)

(e) *Quality of the management plan* (20 points). The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (10 points)

(ii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project. (5 points)

(iii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project. (5 points)

(f) *Quality of the project evaluation* (15 points). The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by

applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* The Department has established the following Government Performance and Results Act of 1993 (GPRA) performance measures for the IAL program: (1) The percentage of four-year-old children participating in the project who achieve significant gains in oral language skills; (2) the percentage of fourth graders participating in the project who demonstrated individual student growth (*i.e.,* an improvement in their achievement) over the past year on State reading or language arts assessments under section 1111(b)(3) of the ESEA, as amended by NCLB; (3) the percentage of eighth graders participating in the project who demonstrated individual student growth (*i.e.,* an improvement in their achievement) over the past year on State reading or language arts assessments under section 1111(b)(3) of the ESEA, as amended by NCLB; (4) the percentage of schools participating in the project whose book-to-student ratios increase from the previous year; and (5) the percentage of participating children who receive at least one free, grade- and language-appropriate book of their own.

Note: For purposes of measures (2) and (3) above, beginning with the 2017–2018 school year, the applicable statutory provision is section 1111(b)(2) of the ESEA, as amended by the Every Student Succeeds Act.

These measures constitute the Department's indicators of success for this program. Consequently, we advise an applicant for a grant under this program to give careful consideration to these measures in conceptualizing the approach and evaluation for its proposed project. Each grantee will be required to provide, in its annual performance and final reports, data about its progress in meeting these measures, to the extent that they apply to the grantee's project.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Beth Yeh, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E332, Washington, DC 20202–6200. Telephone: (202) 205–5798 or by email: *beth.yeh@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 4, 2016.

Ann Whalen,

Senior Advisor to the Secretary Delegated the Duties of Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2016–08051 Filed 4–6–16; 8:45 am]

BILLING CODE 4000–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on April 14, 2016, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- March 10, 2016

B. Reports

- Quarterly Report on Economic Conditions and FCS Conditions
- Farm Credit System Building Association Auditor's Report on 2015 Financial Audit

Closed Session*

- Office of Examination Quarterly Report

Closed Executive Session

- Executive Session—FCS Building Association Auditor's Report

* Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

** Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(2).

Dated: April 5, 2015.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2016–08115 Filed 4–5–16; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination, 10294 North County Bank, Arlington, Washington

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10294 North County Bank, Arlington, Washington (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of North County Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective April 1, 2016, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: April 4, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–07990 Filed 4–6–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination, 10326 Legacy Bank, Scottsdale, Arizona

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10326 Legacy Bank, Scottsdale, Arizona (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Legacy Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective April 1, 2016, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: April 4, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–07988 Filed 4–6–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: *Tuesday, April 12, 2016 at 10:00 a.m.*

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 52 U.S.C. 30109.

Matters concerning participation in civil actions or proceeding, or an arbitration. Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer. Telephone: (202) 694–1220

Shelley E. Garr,

Deputy Secretary.

[FR Doc. 2016–08143 Filed 4–5–16; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 2, 2016.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Chemical Financial Corporation,* Midland, Michigan; to merge with Talmer Bancorp, Inc., Troy, Michigan, and thereby acquire voting shares of Talmer Bank and Trust, Troy, Michigan.

Board of Governors of the Federal Reserve System, April 4, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–07972 Filed 4–6–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 2, 2016.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *H Bancorp LLC,* Irvine, California; to acquire additional shares of Bay Bancorp and indirectly acquire Bay Bank, both in Columbia, Maryland, and thereby engage in operating a savings and loan association.

Board of Governors of the Federal Reserve System, April 4, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–07973 Filed 4–6–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 22, 2016.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Mark Saliterman, Minnetonka, Minnesota; Michael Morton, Shorewood, Minnesota; Christopher Morton, Chanhassen, Minnesota; Lorilee Morton Wright, Shorewood, Minnesota; Julianne Morton, Chanhassen, Minnesota;* and Christopher Morton Trust under Bernard and Margaret Morton GRAT agreement dated 1/1/1996; Mark Saliterman and Christopher Morton co-trustees, the Julianne Morton Samuelson Trust under Bernard and Margaret Morton GRAT agreement dated 1/1/1996; Mark Saliterman and Julianne Samuelson co-trustees, the Michael Morton Trust under Bernard and Margaret Morton GRAT agreement dated 1/1/1996; Mark Saliterman and Michael Morton co-trustees, and the Lorilee Morton Wright Trust under Bernard and Margaret Morton GRAT agreement dated 1/1/1996; Mark Saliterman and Lorilee Wright co-trustees, as members of the Morton family group; to acquire voting shares of Vision Bancshares, Inc., and thereby indirectly acquire voting shares of Vision Bank, both in St. Louis Park, Minnesota.

2. *Theodore J. Hofer Family Trust, Freeman, South Dakota (Emily M. Hofer, Freeman, South Dakota, Trustee), and Emily M. Hofer, individually and as trustee of the Theodore J. Hofer Family Trust and the Cynthia L. Hofer Living Trust, Freeman, South Dakota;* to retain voting shares of H & W Holding Company, and thereby indirectly retain voting shares of Merchants State Bank, both in Freeman, South Dakota.

Board of Governors of the Federal Reserve System, April 4, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–07974 Filed 4–6–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), to approve of and assign OMB numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB number.

DATES: Comments must be submitted on or before June 6, 2016.

ADDRESSES: You may submit comments, identified by *FR 4006, FR 4008, FR 4013, FR 4014,* or *Reg H–1* by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW.) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Reports

1. *Report title:* Request for Extension of Time to Dispose of Assets Acquired in Satisfaction of Debts Previously Contracted.

Agency form number: FR 4006.

OMB control number: 7100–0129.

Frequency: Annual.

Reporters: Bank Holding Companies (BHCs).

Estimated annual reporting hours: 325.

Estimated average hours per response: 5 hours.

Number of respondents: 65.

General description of report: The FR 4006 is authorized pursuant to sections 4(a) and 4(c)(2) of the Bank Holding Company Act (BHC Act), (12 U.S.C. 1843(a), (c)(2)), and the Board's Regulation Y, (12 CFR 225.22(d) and 225.140). Section 4(a) of the BHC Act generally prohibits a BHC from acquiring voting shares of a nonbank company (12 U.S.C. 1843(a)). However, section 4(c)(2) of the BHC Act provides an exception to this general rule and permits BHCs to hold shares acquired in satisfaction of a debt previously contracted in good faith for two years from the date on which they were acquired. *Id.* at § 1843(c)(2). In addition, the Board is authorized to extend the two year period under certain circumstances upon application from a BHC. *Id.* The Board's Regulation Y extends this prohibition and exception to assets acquired in satisfaction of a debt previously contracted (12 CFR 225.140) and provides procedures for such exceptions. (12 CFR 225.22(d)(1)). The FR 4006 is required to obtain the benefit of being permitted to retain ownership of voting securities or assets acquired through foreclosure in the ordinary course of collection a debt previously contracted for more than two years. Individual respondent information is generally not given confidential treatment. However, a respondent may request that the information be kept confidential on a case-by-case basis. If a respondent requests confidential treatment, the Board will determine whether the information is entitled to confidential treatment on an ad hoc basis in connection with such request.

Abstract: A BHC that acquired voting securities or assets through foreclosure in the ordinary course of collecting a debt previously contracted may not retain ownership of those shares or assets for more than two years without prior Federal Reserve approval. There is no formal reporting form and each request for extension must be filed at the appropriate Reserve Bank of the BHC. The Federal Reserve uses the information provided in the request to fulfill its statutory obligation to supervise BHCs.

Current Actions: The Federal Reserve proposes to extend, without revision, the FR 4006 information collection.

2. *Report title:* Stock Redemption Notification.

Agency form number: FR 4008.

OMB control number: 7100–0131.

Frequency: On occasion.

Reporters: BHCs.

Estimated annual reporting hours: 155 hours.

Estimated average hours per response: 15.5 hours.

Number of respondents: 10.

General description of report: The FR 4008 is authorized pursuant to sections 5(b) and (c) of the BHC Act (12 U.S.C. 1844(b) and (c)) and the Board's Regulation Y (CFR 225.4). Sections 5(b) and (c) of the BHC Act generally authorize the Board to issue regulations and orders that are necessary to administer and carry out the purposes of the BHC Act and prevent evasions thereof and to require BHCs to submit reports to the Board to keep the Board informed about their financial condition, systems for monitoring and controlling financial and operating risks, transactions with depository institution subsidiaries, and compliance with the BHC Act, any other Federal law that the Board has specific jurisdiction to enforce, and (other than in the case of an insured depository institution or functionally regulated subsidiary) any other applicable provision of Federal law. 12 U.S.C. 1844(b) and (c). The Board's Regulation Y requires BHCs, in certain circumstances, to file with the appropriate Federal Reserve Bank prior written notice before purchasing or redeeming their equity securities. (12 CFR 225.4(b)). The FR 4008 is required for some BHCs to obtain the benefit of being able to purchase or redeem their equity securities. The individual respondent information in a stock redemption notice is generally not considered confidential. However, a respondent may request that the information be kept confidential on a case-by-case basis. If a respondent requests confidentiality, the Board will determine whether the information is entitled to confidential treatment on an ad hoc basis in connection with such request.

Abstract: The Bank Holding Company Act and the Board's Regulation Y generally require a BHC to seek prior Federal Reserve approval before purchasing or redeeming its equity securities. Given that a BHC is exempt from this requirement if it meets certain financial, managerial, and supervisory standards, only a small portion of proposed stock redemptions actually require the prior approval of the Federal Reserve. There is no formal reporting form. The Federal Reserve uses the information provided in the redemption notice to fulfill its statutory obligation to supervise BHCs.

Current Actions: The Federal Reserve proposes to extend, without revision, the FR 4008 information collection.

3. *Report title:* Notice Claiming Status as an Exempt Transfer Agent.

Agency form number: FR 4013.

OMB control number: 7100–0137.

Frequency: On occasion.

Reporters: Banks, BHCs, savings and loan holding companies (SLHCs), and certain trust companies.

Annual reporting hours: 20 hours.

Estimated average hours per response: 2 hours.

Number of respondents: 10.

General description of report: The FR 4013 is mandatory and authorized pursuant to the Securities Exchange Act of 1934 (the SEA) as amended in 1975, 15 U.S.C. 78q–1, 17 CFR 240.17Ad–4, and 12 CFR. 208.31 and 225.4(d). Section 17A(a)(2)(A)(i) of the SEA, 15 U.S.C. 78q–1(a)(2)(A)(i), directs the Securities and Exchange Commission (SEC) to use its authority under the SEA "to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities." Pursuant to this Congressional directive, the SEC promulgated regulations governing the performance of transfer agent functions by registered transfer agents. See 17 CFR 240.17Ad–2, 240.17Ad–3, and 240.17Ad–6(a)(1) through (7) and (11). SEC Rule 17Ad–4 exempts certain low-volume transfer agents from certain of these regulations provided that the transfer agent files a notice with its appropriate regulatory agency certifying that it qualifies for the exemption. 17 CFR. 240.17Ad–4. Pursuant to the SEA, the SEC's transfer agent rules as well as the low-volume transfer agent exemption are applicable to all registered transfer agents, including those regulated by the Board. See Section 17A(d)(1) of the SEA, 15 U.S.C. 78q–1(d)(1). The Board's regulations further provide that Board-regulated transfer agents are subject to the SEC's transfer agent rules, including the low-volume transfer agent exemption. See 12 CFR 208.31(b) (applicable to state member bank transfer agents); 12 CFR 225.4(d) (providing that the Board's regulations governing state member bank transfer agents are equally applicable to BHCs and certain nonbank subsidiaries that act as transfer agents); 12 CFR 238.4(b) (requiring reports from SLHCs). Because the information regarding a transfer agent's volume of transactions is public information through the filing and publication of the agents' Form TA–2 with the SEC, the individual respondent data collected by the FR 4013 is not confidential.

Abstract: Banks, BHCs, SLHCs, and trust companies subject to the Federal Reserve's supervision that are low-volume transfer agents voluntarily file the notice on occasion with the Federal Reserve. Transfer agents are institutions that provide securities transfer, registration, monitoring, and other specified services on behalf of securities issuers. The purpose of the notice, which is effective until the agent withdraws it, is to claim exemption from certain rules and regulations of the SEC. The Federal Reserve uses the notices for supervisory purposes because the SEC has assigned to the Federal Reserve responsibility for collecting the notices and verifying their accuracy through examinations of the respondents. There is no formal reporting form and each notice is filed as a letter.

Current Actions: The Federal Reserve proposes to extend, without revision, the FR 4013 information collection.

4. *Report title:* Investment in Bank Premises Notification.

Agency form number: FR 4014.

OMB control number: 7100–0139.

Frequency: On occasion.

Reporters: State member banks (SMBs).

Annual reporting hours: 9 hours (rounded to the nearest hour).

Estimated average hours per response: 30 minutes.

Number of respondents: 5.

General description of report: Section 24A(a) of the Federal Reserve Act (FRA) requires that SMBs obtain prior Board approval before investing in bank premises that exceed certain statutory thresholds (12 U.S.C. 371d(a)). The FR 4014 is required to obtain a benefit because banks wanting to make an investment in bank premises that exceed a certain threshold are required to notify the Federal Reserve. The information collected is not considered confidential. However, an SMB may request that a report or document not be disclosed to the public and be held confidential by the Board. Should an SMB request confidential treatment of such information, the question of whether the information is entitled to confidential treatment must be determined on an ad hoc basis in connection with such request.

Abstract: The FRA requires SMBs to seek prior Federal Reserve approval before making an investment in bank premises that exceeds certain thresholds. There is no formal reporting form, and each required request for prior approval must be filed as a notification with the appropriate Reserve Bank of the SMB. The Federal Reserve uses the information provided in the notice to fulfill its statutory obligation to supervise SMBs.

Current Actions: The Federal Reserve proposes to extend, without revision, the FR 4014 information collection.

5. *Report title:* Reports Related to Securities Issued by State Member Banks as Required by Regulation H.

Agency form number: Reg H–1.

OMB control number: 7100–0091.

Frequency: Annually, Quarterly, and on occasion.

Reporters: SMBs.

Estimated annual reporting hours: 264.

Estimated average hours per response: 5.17.

Number of respondents: 3.

General description of report: This information collection is mandatory pursuant to sections 12(i) and 23(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 781(i) and 78w (a)(1)) and the Board's Regulation H (12 CFR 208.36).

The information collected is not given confidential treatment. However, a state member bank make request that a report or document not be disclosed to the public and be held confidential by the Federal Reserve, (12 CFR 208.36(d). All such requests for confidential treatment will be determined on a case-by-case basis.

Abstract: The Federal Reserve's Regulation H requires certain SMBs to submit information relating to their securities to the Federal Reserve on the same forms that bank holding companies and nonbank entities use to submit similar information to the SEC. The information is primarily used for public disclosure and is available to the public upon request.

Current Actions: The Federal Reserve proposes to extend, without revision, the Reg H–1 information collection.

Board of Governors of the Federal Reserve System, April 4, 2016.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2016–07991 Filed 4–6–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–15BFV]

Agency Forms Undergoing Paperwork Reduction Act Review—A Study of Viral Persistence in Ebola Virus Disease (EVD) Survivors; Correction

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice; Correction.

SUMMARY: The Centers for Disease Control and Prevention (CDC) published a document in the **Federal Register** of April 1, 2016, concerning request for comments on Agency Forms Undergoing Paperwork Reduction Act Review—A Study of Viral Persistence in Ebola Virus Disease (EVD) Survivors. The document contained an incorrect total estimate for public burden hours.

FOR FURTHER INFORMATION CONTACT: Leroy Richardson, 1600 Clifton Road, MS D–74, Atlanta, GA 30333; telephone (404) 639–4965; email: *omb@cdc.gov.*

Correction

In the **Federal Register** of April 1, 2016, in FR Doc. 2016–07424, on page 18854, in the third column (last paragraph), correct the "burden hours requested" to read:

The total burden hours requested for the research study in Sierra Leone is 1,836 hours.

Dated: April 4, 2016.

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–07992 Filed 4–6–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–0990–0221–60D]

Agency Information Collection Activities; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit a new Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting that ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before June 6, 2016.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier 0990–0221–60D for reference.

Information Collection Request Title: Title X Family Planning Annual Report.

Abstract: The Office of Population Affairs within the Office of the Assistant Secretary for Health seeks to renew the currently approved Family Planning Annual Report (FPAR) data collection and reporting tool (OMB No. 0990–0221). This annual reporting requirement is for family planning services delivery projects authorized and funded by the Title X Family Planning Program ["Population Research and Voluntary Family Planning Programs" (Public Law 91–572)], which was enacted in 1970 as Title X of the Public Health Service Act (Section 1001; 42 U.S.C. 300). The FPAR data collection and reporting tool remains unchanged in this request to renew OMB approval to collect essential, annual data from Title X grantees.

Need and Proposed Use of the Information: The Title X Family Planning Program ("Title X program" or "program") is the only Federal grant program dedicated solely to providing individuals with comprehensive family planning and related preventive health services (*e.g.,* screening for breast and cervical cancer, sexually transmitted diseases (STDs), and human immunodeficiency virus). By law, priority is given to persons from low-income families (Section 1006[c] of Title X of the Public Health Service Act, 42 U.S.C. 300). The Office of Population Affairs (OPA) within the Office of the Assistant Secretary for Health administers the Title X program.

Annual submission of the FPAR is required of all Title X family planning services grantees for purposes of monitoring and reporting program performance (45 CFR part 74 and 45 CFR part 92). The FPAR is the only source of annual, uniform reporting by all grantees funded under Section 1001 of the Title X Public Health Service Act. The FPAR provides consistent, national-level data on the Title X Family Planning program and its users that allow OPA to assemble comparable and relevant program data to answer questions about the characteristics of the population served, use of services offered, composition of revenues that complement Title X funds, and impact of the program on key health outcomes.

Likely Respondents: Respondents for this annual reporting requirement are centers that receive funding directly from OPA for family planning services authorized and funded under the Title X Family Planning Program ["Population Research and Voluntary Family Planning Programs" (Pub. L. 91–572)], which was enacted in 1970 as Title X of the Public Health Service Act (Section 1001 of Title X of the Public Health Service Act, 42 United States Code [U.S.C.] 300).

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average annualized burden per response (hours)	Annualized total burden (hours)
Grantees	FPAR	93 grantees	1	36	3,348
Totals		93			3,348

OS specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,
Information Collection Clearance Officer.
[FR Doc. 2016–07964 Filed 4–6–16; 8:45 am]
BILLING CODE 4150–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Notice of the Redesignation of the Service Delivery Area for the Wampanoag Tribe of Gay Head (Aquinnah)

AGENCY: Indian Health Service.

ACTION: Final notice.

SUMMARY: This final notice advises the public that the Indian Health Service (IHS) has decided to expand the geographic boundaries of the Purchased/Referred Care (PRC) service delivery area for the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts pursuant to 42 CFR 136.22. The Aquinnah service delivery area previously covered Martha's Vineyard, Dukes County in the State of Massachusetts. The expanded service delivery area includes counties of Barnstable, Bristol, Norfolk, Plymouth, Suffolk, and Dukes Counties in the State of Massachusetts. The sole purpose of this expansion is to authorize Aquinnah to cover additional tribal members and beneficiaries under Aquinnah's PRC program using the existing Federal allocation for PRC funds.

DATES: The effective date of expansion will be 60 days from the date of this notice.

FOR FURTHER INFORMATION CONTACT: Terri Schmidt, Acting Director, Office of Resource Access and Partnerships, Indian Health Service, 5600 Fishers Lane, Mailstop 10E85C, Rockville, Maryland 20857. Telephone (301) 443–2694 (This is not a toll free number).

Background: The Indian Health Service (IHS) currently provides services under regulations codified at 42 CFR part 136, subparts A through C. Subpart C defines a Contract Health Service Delivery Area (CHSDA), now referred to as a Purchased/Referred Care (PRC) service delivery area, as the geographic area within which PRC will be made available by the IHS to members of an identified Indian community who reside in the area. Residence in a PRC service delivery area by a person who is within the scope of the Indian health program, as set forth in 42 CFR 136.12, creates no legal entitlement to PRC but only potential eligibility for services. Services needed but not available at an IHS/Tribal facility are provided under the PRC program depending on the availability of funds, the person's relative medical priority, and the actual availability and accessibility of alternate resources in accordance with the regulations.

As applicable to the Tribes, these regulations provide that, unless otherwise designated, a PRC service delivery area shall consist of a county which includes all or part of a reservation and any county or counties which have a common boundary with the reservation. 42 CFR 136.22(a)(6). The regulations also provide that after consultation with the Tribal governing body or bodies on those reservations included within the PRC service delivery area, the Secretary may from time to time, redesignate areas within the United States for inclusion in or exclusion from a PRC service delivery area. The regulations require that certain criteria must be considered before any redesignation is made. The criteria are as follows:

(1) The number of Indians residing in the area proposed to be so included or excluded;

(2) Whether the Tribal governing body has determined that Indians residing in the area near the reservation are socially and economically affiliated with the tribe;

(3) The geographic proximity to the reservation of the area whose inclusion or exclusion is being considered; and

(4) The level of funding which would be available for the provision of PRC.

Additionally, the regulations require that any redesignation of a PRC service delivery area must be made in accordance with the Administrative Procedures Act (5 U.S.C. 553). In compliance with this requirement, IHS published a proposed notice of redesignation and requested public comments on August 24, 2015 (80 FR 51281). Aquinnah requested that IHS expand the Aquinnah service delivery area to include Barnstable, Bristol, Norfolk, Plymouth and Suffolk Counties in the State of Massachusetts.

In support of this expansion, IHS adopts the following findings of the Aquinnah Tribe:

(1) By expanding, the Tribe's estimated current eligible population will be increased by 268.

(2) The Tribe has determined these 268 individuals are socially and economically affiliated with the Tribe.

(3) The expanded area including Barnstable, Bristol, Norfolk, Plymouth, and Suffolk Counties in the State of Massachusetts are across the Bay from Martha's Vineyard, Dukes County, Massachusetts.

(4) The Tribal members located in these counties currently do not use the Indian health system for their health care needs.

Aquinnah will use its existing Federal allocation for PRC funds to provide services to the expanded population. No additional financial resources will be allocated by IHS to Aquinnah to provide services to its members residing in these counties nor should this expansion be construed to have any present or future effect on the allocation of resources between the Mashpee Wampanoag Tribe and Aquinnah.

Public Comments: The Agency only received comments from the Mashpee Wampanoag Tribe (Mashpee). Mashpee incorporated several letters into its submission. Through these comments and letters, Mashpee indicated that it does not support the proposed redesignation and articulated several objections to the expansion, which IHS addresses below:

Comment: IHS has failed to meet its legal requirement to meaningfully consult with the Mashpee Tribe as the only other Tribal governing body within the proposed redesignated SDA in accordance with 42 CFR 136.22(b).

Response: IHS disagrees. IHS consulted with the Mashpee Tribe regarding this proposed expansion. As Mashpee noted in its own submission, IHS engaged in government-to-government discussions and correspondence on this issue. IHS provided its answers to the Mashpee Tribe's questions in a letter from Deputy Director McSwain to Mashpee Chairman Cromwell, dated October 5, 2015. While Mashpee questions the adequacy of IHS's answers, they nonetheless demonstrate that IHS has engaged in meaningful consultation with Mashpee with respect to this expansion. Additionally, the opportunity to submit comments on a proposed notice is a form of consultation. IHS recognizes that Mashpee has concerns with the expansion and does not support the IHS decisions in this regard. IHS is not required, after consultation with a Tribe, to adopt the specific position of the Mashpee Tribe.

Comment: IHS has no legal authority to contravene the clear legal mandate of the Wampanoag Tribal Council of Gay Head, Inc., Indian Claims Settlement Act of 1987.

Response: IHS agrees with the Mashpee Tribe that the Agency cannot contravene the Settlement Act, but the Agency does not believe the expansion is prohibited by the Settlement Act. It is HHS's understanding that the Settlement Act is not implemented by Department of the Interior (DOI) as a limitation for DOI programs and services. Accordingly, after conferring with DOI regarding its position, IHS has decided to revisit the expansion issue. The establishment of PRC service delivery areas is an administrative function of IHS, governed by the regulations at 42 CFR 136.22. Historically, IHS has established service delivery areas in accordance with our understanding of Congressional intent, for example as evidenced by geographically designated areas identified in settlement acts, such as Public Law 100–95. IHS does not intend to abandon that practice. Under PRC regulations, however, IHS has preserved flexibility to redesignate areas as appropriate for inclusion in or exclusion from PRC service delivery. One of the criteria for such redesignations is the geographic proximity of the expanded area to the existing reservation or service delivery area. In the few circumstances where it has arisen, IHS has aligned geographic proximity with Congressional findings of "on or near".

Here, IHS proposed to expand a PRC delivery area beyond the geographic description of "on or near" that Congress set forth in a settlement or recognition act. IHS offered stakeholders the opportunity to comment on the departure from historic practice by issuing a notice of proposed expansion prior to issuing a final notice to ascertain whether the departure is disruptive to tribes that have previously relied on IHS's historic practice. IHS did not receive comments that identify a detrimental reliance interest. Accordingly, when considering the geographic proximity of the proposed expansion area under 42 CFR 136.22 to the existing reservation (or service delivery area), IHS will no longer rigidly apply a Congressional finding of "on or near" as prohibiting PRC delivery area expansion in considering expansion requests. Although this is a change in the implementation of the redesignation authority found at 42 CFR 136.22, no change is necessary to the text of the regulation itself.

In making this change, however, IHS notes that Congress has, at times, statutorily enacted PRC service delivery areas for some tribes or for entire States. See, *e.g.* 25 U.S.C. 1678 (designating the entire State of Arizona). Those enactments may limit changes in PRC delivery area boundaries in some circumstances. Congress did not specifically establish a PRC service delivery area for Aquinnah in the Settlement Act; IHS administratively established this area through its regulations. While IHS chose to establish and limit the Aquinnah PRC service delivery area consistent with the language of the Act, in keeping with our current understanding of DOI practices, the language of the Act does not have to be read as preventing IHS from exercising its administrative discretion to expand or reduce that initially established area going forward. Indeed, IHS has already interpreted its authority to permit the establishment of PRC service delivery areas that go beyond what may otherwise be considered "on or near" a reservation. For example, IHS has administratively designated entire states as PRC service delivery areas, even though all parts of such states were not necessarily "on or near" a reservation. Nor does there appear to be any legislative history of the Act that would suggest that Congress intended the language of Section 1771 to be a limitation on IHS programs or administrative flexibility. There is also no evidence to suggest that Congress intended to limit eligibility for PRC services. Unless IHS administratively expands the PRC service delivery, however, Aquinnah cannot cover hundreds of its tribal members under PRC. IHS has therefore revisited Aquinnah's request and believes that unique circumstances are present that warrant expanding the Aquinnah PRC service delivery area beyond the general geographic area identified by Congress in Public Law 100–95 as "on or near". These unique circumstances include the factors identified by the BIA in recognizing the Aquinnah prior to the enactment of Public Law 100–95, BIA's understanding of the settlement language, and Dukes County's status as an island and the significant number of Aquinnah's members who reside permanently off of the island and continue to maintain close economic and social ties with the Aquinnah.

The BIA recognized the Aquinnah Tribe as an Indian Tribe eligible for Federal benefits on February 10, 1987, pursuant to a notice published in the **Federal Register**. See 52 FR 4193. As part of its findings, BIA concluded "that the [Aquinnah] have an extensive and interrelated communication network connecting those Wampanoag members in Gay Head and elsewhere on Martha's Vineyard with each other and with those members living off-island." The BIA further concluded that the Tribal government "maintained political influence and/or authority over both its resident and non-resident members." Aquinnah has a significant number of members who are not residents of Dukes County. According to Aquinnah's estimates, 268 enrolled Aquinnah members are non-residents who remain actively involved with the Tribe, reside in Barnstable, Bristol, Norfolk, Plymouth and Suffolk Counties and are not currently eligible for PRC care.

Aquinnah provides limited direct services to its Tribal members by operating a small clinic in Dukes County that is open once or twice a month. To access direct care services, non-residents must travel over one and a half hours via ferry and car to receive the health care offered at the clinic. As a consequence, most non-residents do not seek care on the island.

Comment: The Mashpee tribe commented that the publication of the notice is arbitrary, capricious, and contrary to law.

Response: IHS disagrees. IHS's decision to publish a notice of the intention to expand the Aquinnah PRC service delivery area was not arbitrary, capricious, or contrary to law. IHS rules expressly authorize IHS to expand a PRC service delivery area through a notice issued pursuant to the Administrative Procedures Act (5 U.S.C. 553) and that process has been followed here. IHS is implementing a change in the way it reviews PRC delivery expansion requests, but that change is fully consistent with the existing language in the rules.

Comment: 42 CFR 136.22(a)(6) provides that "the [CHSDA] shall consist of a county which includes all or part of a reservation, and any county or counties which have a common boundary with the reservation." As explained in the 2011 Declination Letter, "since the county is coextensive with the Atlantic Ocean island of Martha's Vineyard, there is no adjacent county to consider for inclusion in the CHSDA."

Response: The comment references the starting point for establishing a PRC service delivery area. As noted above, IHS retains the administrative discretion to redesignate PRC service delivery areas after they are initially designated. The criteria for expansion requires IHS to consider geographic proximity, but it does not require IHS to limit expansion to adjacent counties.

PURCHASED/REFERRED CARE SERVICE DELIVERY AREAS AND SERVICE DELIVERY AREAS

Tribe/Reservation	County/State
Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona.	Pinal, AZ.
Alabama-Coushatta Tribes of Texas	Polk, TX.[1]
Alaska	Entire State.[2]
Arapahoe Tribe of the Wind River Reservation, Wyoming	Hot Springs, WY, Fremont, WY, Sublette, WY.
Aroostook Band of Micmacs	Aroostook, ME.[3]
Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana.	Daniels, MT, McCone, MT, Richland, MT, Roosevelt, MT, Sheridan, MT, Valley, MT.
Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin.	Ashland, WI, Iron, WI.
Bay Mills Indian Community, Michigan	Chippewa, MI.
Blackfeet Tribe of the Blackfeet Indian Reservation of Montana	Glacier, MT, Pondera, MT.
Brigham City Intermountain School Health Center, Utah	(4)
Burns Paiute Tribe	Harney, OR.
California	Entire State, except for the counties listed in the footnote.[5]
Catawba Indian Nation	All Counties in SC[6], Cabarrus, NC, Cleveland, NC, Gaston, NC, Mecklenburg, NC, Rutherford, NC, Union, NC.
Cayuga Nation	Allegany, NY[7], Cattaraugus, NY, Chautauqua, NY, Erie, NY, Warren, PA.
Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota.	Corson, SD, Dewey, SD, Haakon, SD, Meade, SD, Perkins, SD, Potter, SD, Stanley, SD, Sully, SD, Walworth, SD, Ziebach, SD.
Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana	Chouteau, MT, Hill, MT, Liberty, MT.
Chitimacha Tribe of Louisiana	St. Mary Parish, LA.
Cocopah Tribe of Arizona	Yuma, AZ, Imperial, CA.
Coeur D'Alene Tribe	Benewah, ID, Kootenai, ID, Latah, ID, Spokane, WA, Whitman, WA.
Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California.	La Paz, AZ, Riverside, CA, San Bernardino, CA, Yuma, AZ.
Confederated Salish and Kootenai Tribes of the Flathead Reservation	Flathead, MT, Lake, MT, Missoula, MT, Sanders, MT.
Confederated Tribes and Bands of the Yakama Nation	Klickitat, WA, Lewis, WA, Skamania, WA[8], Yakima, WA.
Confederated Tribes of Siletz Indians of Oregon	Benton, OR[9], Clackamas, OR, Lane, OR, Lincoln, OR, Linn, OR, Marion, OR, Multnomah, OR, Polk, OR, Tillamook, OR, Washington, OR, Yam Hill, OR.
Confederated Tribes of the Chehalis Reservation	Grays Harbor, WA, Lewis, WA, Thurston, WA.
Confederated Tribes of the Colville Reservation, Washington	Chelan, WA[10], Douglas, WA, Ferry, WA, Grant, WA, Lincoln, WA, Okanogan, WA, Stevens, WA.
Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians	Coos, OR[11], Curry, OR, Douglas, OR, Lane, OR, Lincoln, OR.
Confederated Tribes of the Goshute Reservation, Nevada and Utah	Nevada, Juab, UT, Toole, UT.
Confederated Tribes of the Grand Ronde Community of Oregon	Polk, OR[12], Washington, OR, Marion, OR, Yamhill, OR, Tillamook, OR, Multnomah, OR.
Confederated Tribes of the Umatilla Indian Reservation	Umatilla, OR, Union, OR.
Confederated Tribes of the Warm Springs Reservation of Oregon	Clackamas, OR, Jefferson, OR, Linn, OR, Marion, OR, Wasco, OR.
Coquille Indian Tribe	Coos, OR, Curry, OR, Douglas, OR, Jackson, OR, Lane, OR.
Coushatta Tribe of Louisiana	Allen Parish, LA, Elton, LA.[13]
Cow Creek Band of Umpqua Tribe of Indians	Coos, OR[14], Deshutes, OR, Douglas, OR, Jackson, OR, Josephine, OR, Klamath, OR, Lane, OR.
Cowlitz Indian Tribe	Clark, WA, Cowlitz, WA, King, WA, Lewis, WA, Pierce, WA, Skamania, WA, Thurston, WA, Columbia, OR[15], Kittitas, WA, Wahkiakum, WA.
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota	Brule, SD, Buffalo, SD, Hand, SD, Hughes, SD, Hyde, SD, Lyman, SD, Stanley, SD.
Crow Tribe of Montana	Big Horn, MT, Carbon, MT, Treasure, MT[16], Yellowstone, MT, Big Horn, WY, Sheridan, WY.
Eastern Band of Cherokee Indians	Cherokee, NC, Graham, NC, Haywood, NC, Jackson, NC, Swain, NC.
Flandreau Santee Sioux Tribe of South Dakota	Moody, SD.
Forest County Potawatomi Community, Wisconsin	Forest, WI, Marinette, WI, Oconto, WI.
Fort Belknap Indian Community of the Fort Belknap Reservation of Montana.	Blaine, MT, Phillips, MT.

Purchased/Referred Care Service Delivery Areas and Service Delivery Areas—Continued

Tribe/Reservation	County/State
Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon.	Nevada, Malheur, OR.
Fort McDowell Yavapai Nation, Arizona	Maricopa, AZ.
Fort Mojave Indian Tribe of Arizona, California and Nevada	Nevada, Mohave, AZ, San Bernardino, CA.
Gila River Indian Community of the Gila River Indian Reservation, Arizona.	Maricopa, AZ, Pinal, AZ.
Grand Traverse Band of Ottawa and Chippewa Indians, Michigan	Antrim, MI[17], Benzie, MI, Charlevoix, MI, Grand Traverse, MI, Leelanau, MI, Manistee, MI.
Hannahville Indian Community, Michigan	Delta, MI, Menominee, MI.
Haskell Indian Health Center	Douglas, KS.[18]
Havasupai Tribe of the Havasupai Reservation, Arizona	Coconino, AZ.
Ho-Chunk Nation of Wisconsin	Adams, WI[19], Clark, WI, Columbia, WI, Crawford, WI, Dane, WI, Eau Claire, WI, Houston, MN, Jackson, WI, Juneau, WI, La Crosse, WI, Marathon, WI, Monroe, WI, Sauk, WI, Shawano, WI, Vernon, WI, Wood, WI.
Hoh Indian Tribe	Jefferson, WA.
Hopi Tribe of Arizona	Apache, AZ, Coconino, AZ, Navajo, AZ.
Houlton Band of Maliseet Indians	Aroostook, ME.[20]
Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona	Coconino, AZ, Mohave, AZ, Yavapai, AZ.
Iowa Tribe of Kansas and Nebraska	Brown, KS, Doniphan, KS, Richardson, NE.
Jamestown S'Klallam Tribe	Clallam, WA, Jefferson, WA.
Jena Band of Choctaw Indians	Grand Parish, LA[21], LaSalle Parish, LA, Rapides Parish, LA.
Jicarilla Apache Nation, New Mexico	Archuleta, CO, Rio Arriba, NM, Sandoval, NM.
Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona.	Coconino, AZ, Mohave, AZ, Kane, UT.
Kalispel Indian Community of the Kalispel Reservation	Pend Oreille, WA, Spokane, WA.
Kewa Pueblo, New Mexico	Sandoval, NM, Santa Fe, NM.
Keweenaw Bay Indian Community, Michigan	Baraga, MI, Houghton, MI, Ontonagon, MI.
Kickapoo Traditional Tribe of Texas	Maverick, TX.[22]
Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas	Brown, KS, Jackson, KS.
Klamath Tribes	Klamath, OR.[23]
Koi Nation of Northern California (formerly known as Lower Lake Rancheria, California).	Lake, CA, Sonoma, CA.[24]
Kootenai Tribe of Idaho	Boundary, ID.
Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin.	Sawyer, WI.
Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin..	Iron, WI, Oneida, WI, Vilas, WI.
Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan	Gogebic, MI.
Little River Band of Ottawa Indians, Michigan	Kent, MI[25], Muskegon, MI, Newaygo, MI, Oceana, MI, Ottawa, MI, Manistee, MI, Mason, MI, Wexford, MI, Lake, MI.
Little Traverse Bay Bands of Odawa Indians, Michigan	Alcona, MI[25], Alger, MI, Alpena, MI, Antrim, MI, Benzie, MI, Charlevoix, MI, Cheboygan, MI, Chippewa, MI, Crawford, MI, Delta, MI, Emmet, MI, Grand Traverse, MI, Iosco, MI, Kalkaska, MI, Leelanau, MI, Luce, MI, Mackinac, MI, Manistee, MI, Missaukee, MI, Montmorency, MI, Ogemaw, MI, Oscoda, MI, Otsego, MI, Presque Isle, MI, Schoolcraft, MI, Roscommon, MI, Wexford, MI.
Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota	Brule, SD, Buffalo, SD, Hughes, SD, Lyman, SD, Stanley, SD.
Lower Elwha Tribal Community	Clallam, WA.
Lower Sioux Indian Community in the State of Minnesota	Redwood, MN, Renville, MN.
Lummi Tribe of the Lummi Reservation	Whatcom, WA.
Makah Indian Tribe of the Makah Indian Reservation	Clallam, WA.
Mashantucket Pequot Tribe	New London, CT.[26]
Mashpee Wampanoag Tribe	Barnstable, MA, Bristol, MA, Norfolk, MA, Plymouth, MA, Suffolk, MA.[27]
Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan	Allegan, MI[28], Barry, MI, Kalamazoo, MI, Kent, MI, Ottawa, MI.
Menominee Indian Tribe of Wisconsin	Langlade, WI, Menominee, WI, Oconto, WI, Shawano, WI.
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico	Chaves, NM, Lincoln, NM, Otero, NM.
Miccosukee Tribe of Indians	Broward, FL, Collier, FL, Miami-Dade, FL, Hendry, FL.
Minnesota Chippewa Tribe, Minnesota Bois Forte Band (Nett Lake)	Itasca, MN, Koochiching, MN, St. Louis, MN.
Minnesota Chippewa Tribe, Minnesota Fond du Lac Band	Carlton, MN, St. Louis, MN.
Minnesota Chippewa Tribe, Minnesota Grand Portage Band	Cook, MN.
Minnesota Chippewa Tribe, Minnesota Leech Lake Band	Beltrami, MN, Cass, MN, Hubbard, MN, Itasca, MN.
Minnesota Chippewa Tribe, Minnesota Mille Lacs Band	Aitkin, MN, Kanebec, MN, Mille Lacs, MN, Pine, MN.
Minnesota Chippewa Tribe, Minnesota White Earth Band	Becker, MN, Clearwater, MN, Mahnomen, MN, Norman, MN, Polk, MN.
Mississippi Band of Choctaw Indians	Attala, MS, Jasper, MS[29], Jones, MS, Kemper, MS, Leake, MS, Neshoba, MS, Newton, MS, Noxubee, MS[29], Scott, MS[30], Winston, MS.
Mohegan Tribe of Indians of Connecticut	Fairfield, CT, Hartford, CT, Litchfield, CT, Middlesex, CT, New Haven, CT, New London, CT, Tolland, CT, Windham, CT.
Muckleshoot Indian Tribe	King, WA, Pierce, WA.

Purchased/Referred Care Service Delivery Areas and Service Delivery Areas—Continued

Tribe/Reservation	County/State
Narragansett Indian Tribe	Washington, RI.[31]
Navajo Nation, Arizona, New Mexico & Utah	Apache, AZ, Bernalillo, NM, Cibola, NM, Coconino, AZ, Kane, UT, McKinley, NM, Montezuma, CO, Navajo, AZ, Rio Arriba, NM, Sandoval, NM, San Juan, NM, San Juan, UT, Socorro, NM, Valencia, NM.
Nevada	Entire State.[32]
Nez Perce Tribe	Clearwater, ID, Idaho, ID, Latah, ID, Lewis, ID, Nez Perce, ID.
Nisqually Indian Tribe	Pierce, WA, Thurston, WA.
Nooksack Indian Tribe	Whatcom, WA.
Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana.	Big Horn, MT, Carter, MT[33], Rosebud, MT.
Northwestern Band of Shoshoni Nation	Box Elder, UT.[34]
Nottawaseppi Huron Band of the Potawatomi, Michigan	Allegan, MI[35], Barry, MI, Branch, MI, Calhoun, MI, Kalamazoo, MI, Kent, MI, Ottawa, MI.
Oglala Sioux Tribe	Bennett, SD, Cherry, NE, Custer, SD, Dawes, NE, Fall River, SD, Jackson, SD[36], Mellete, SD, Pennington, SD, Shannon, SD, Sheridan, NE, Todd, SD.
Ohkay Owingeh, New Mexico	Rio Arriba, NM.
Oklahoma	Entire State.[37]
Omaha Tribe of Nebraska	Burt, NE, Cuming, NE, Monona, IA, Thurston, NE, Wayne, NE.
Oneida Nation of New York	Chenango, NY, Cortland, NY, Herkimer, NY, Madison, NY, Oneida, NY, Onondaga, NY.
Oneida Tribe of Indians of Wisconsin	Brown, WI, Outagamie, WI.
Onondaga Nation	Onondaga, NY.
Paiute Indian Tribe of Utah	Iron, UT[38] Millard, UT, Sevier, UT, Washington, UT.
Pascua Yaqui Tribe of Arizona	Pima, AZ.[39]
Passamaquoddy Tribe	Aroostook, ME[40][41], Washington, ME.
Penobscot Nation	Aroostook, ME[40], Penobscot, ME.
Poarch Band of Creeks	Baldwin, AL[42], Elmore, AL, Escambia, AL, Mobile, AL, Monroe, AL, Escambia, FL.
Pokagon Band of Potawatomi Indians, Michigan and Indiana	Allegan, MI[43], Berrien, MI, Cass, MI, Elkhart, IN, Kosciusko, IN, La Porte, IN, Marshall, IN, St. Joseph, IN, Starke, IN, Van Buren, MI.
Ponca Tribe of Nebraska	Boyd, NE[44], Burt, NE, Charles Mix, SD, Douglas, NE, Hall, NE, Holt, NE, Knox, NE, Lancaster, NE, Madison, NE, Platte, NE, Pottawattomie, IA, Sarpy, NE, Stanton, NE, Wayne, NE, Woodbury, IA.
Port Gamble S'Klallam Tribe	Kitsap, WA.
Prairie Band of Potawatomi Nation	Jackson, KS.
Prairie Island Indian Community in the State of Minnesota	Goodhue, MN.
Pueblo of Acoma, New Mexico	Cibola, NM.
Pueblo of Cochiti, New Mexico	Sandoval, NM, Santa Fe, NM.
Pueblo of Isleta, New Mexico	Bernalillo, NM, Torrance, NM, Valencia, NM.
Pueblo of Jemez, New Mexico	Sandoval, NM.
Pueblo of Laguna, New Mexico	Bernalillo, NM, Cibola, NM, Sandoval, NM, Valencia, NM.
Pueblo of Nambe, New Mexico	Santa Fe, NM.
Pueblo of Picuris, New Mexico	Taos, NM.
Pueblo of Pojoaque, New Mexico	Rio Arriba, NM, Santa Fe, NM.
Pueblo of San Felipe, New Mexico	Sandoval, NM.
Pueblo of San Ildefonso, New Mexico	Los Alamos, NM, Rio Arriba, NM, Sandoval, NM, Santa Fe, NM.
Pueblo of Sandia, New Mexico	Bernalillo, NM, Sandoval, NM.
Pueblo of Santa Ana, New Mexico	Sandoval, NM.
Pueblo of Santa Clara, New Mexico	Los Alamos, NM, Sandoval, NM, Santa Fe, NM.
Pueblo of Taos, New Mexico	Colfax, NM, Taos, NM.
Pueblo of Tesuque, New Mexico	Santa Fe, NM.
Pueblo of Zia, New Mexico	Sandoval, NM.
Puyallup Tribe of the Puyallup Reservation	King, WA, Pierce, WA, Thurston, WA.
Quechan Tribe of the Fort Yuma Indian Reservation, California and Arizona.	Yuma, AZ, Imperial, CA.
Quileute Tribe of the Quileute Reservation	Clallam, WA, Jefferson, WA.
Quinault Indian Nation	Grays Harbor, WA, Jefferson, WA.
Rapid City, South Dakota	Pennington, SD.[45]
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin	Bayfield, WI.
Red Lake Band of Chippewa Indians, Minnesota	Beltrami, MN, Clearwater, MN, Koochiching, MN, Lake of the Woods, MN, Marshall, MN, Pennington, MN, Polk, MN, Roseau, MN.
Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota	Bennett, SD, Cherry, NE, Gregory, SD, Lyman, SD, Mellette, SD, Todd, SD, Tripp, SD.
Sac & Fox Nation of Missouri in Kansas and Nebraska	Brown, KS, Richardson, NE.
Sac & Fox Tribe of the Mississippi in Iowa	Tama, IA.
Saginaw Chippewa Indian Tribe of Michigan	Arenac, MI[46], Clare, MI, Isabella, MI, Midland, MI, Missaukee, MI.
Saint Regis Mohawk Tribe	Franklin, NY, St. Lawrence, NY.
Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona.	Maricopa, AZ.

PURCHASED/REFERRED CARE SERVICE DELIVERY AREAS AND SERVICE DELIVERY AREAS—Continued

Tribe/Reservation	County/State
Samish Indian Nation	Clallam, WA[47], Island, WA, Jefferson, WA, King, WA, Kitsap, WA, Pierce, WA, San Juan, WA, Skagit, WA, Snohomish, WA, Whatcom, WA.
San Carlos Apache Tribe of the San Carlos Reservation, Arizona	Apache, AZ, Cochise, AZ, Gila, AZ, Graham, AZ, Greenlee, AZ, Pinal, AZ.
San Juan Southern Paiute Tribe of Arizona	Coconino, AZ, San Juan, UT.
Santee Sioux Nation, Nebraska	Bon Homme, SD, Knox, NE.
Sauk-Suiattle Indian Tribe	Snohomish, WA, Skagit, WA.
Sault Ste. Marie Tribe of Chippewa Indians, Michigan	Alger, MI[48], Chippewa, MI, Delta, MI, Luce, MI, Mackinac, MI, Marquette, MI, Schoolcraft, MI.
Seminole Tribe of Florida	Broward, FL, Collier, FL, Miami-Dade, FL, Glades, FL, Hendry, FL.
Seneca Nation of Indians	Allegany, NY, Cattaraugus, NY, Chautauqua, NY, Erie, NY, Warren, PA.
Shakopee Mdewakanton Sioux Community of Minnesota	Scott, MN.
Shinnecock Indian Nation	Nassau, NY[49], Suffolk, NY.
Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation	Pacific, WA.
Shoshone Tribe of the Wind River Reservation, Wyoming	Hot Springs, WY, Fremont, WY, Sublette, WY.
Shoshone-Bannock Tribes of the Fort Hall Reservation	Bannock, ID, Bingham, ID, Caribou, ID, Lemhi, ID[50], Power, ID.
Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada	Nevada, Owyhee, ID.
Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota.	Codington, SD, Day, SD, Grant, SD, Marshall, SD, Richland, ND, Roberts, SD, Sargent, ND, Traverse, MN.
Skokomish Indian Tribe	Mason, WA.
Skull Valley Band of Goshute Indians of Utah	Tooele, UT.
Snoqualmie Indian Tribe	King, WA[51], Snohomish, WA, Pierce, WA, Island, WA, Mason, WA.
Sokaogon Chippewa Community, Wisconsin	Forest, WI.
Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado	Archuleta, CO, La Plata, CO, Montezuma, CO, Rio Arriba, NM, San Juan, NM.
Spirit Lake Tribe, North Dakota	Benson, ND, Eddy, ND, Nelson, ND, Ramsey, ND.
Spokane Tribe of the Spokane Reservation	Ferry, WA, Lincoln, WA, Stevens, WA.
Squaxin Island Tribe of the Squaxin Island Reservation	Mason, WA.
St. Croix Chippewa Indians of Wisconsin	Barron, WI, Burnett, WI, Pine, MN, Polk, WI, Washburn, WI.
Standing Rock Sioux Tribe of North & South Dakota	Adams, ND, Campbell, SD, Corson, SD, Dewey, SD, Emmons, ND, Grant, ND, Morton, ND, Perkins, SD, Sioux, ND, Walworth, SD, Ziebach, SD.
Stillaguamish Tribe of Indians of Washington	Snohomish, WA.
Stockbridge Munsee Community, Wisconsin	Menominee, WI, Shawano, WI.
Suquamish Indian Tribe of the Port Madison Reservation	Kitsap, WA.
Swinomish Indian Tribal Community	Skagit, WA.
Tejon Indian Tribe	Kern, CA.[52]
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota	Dunn, ND, Mercer, ND, McKenzie, ND, McLean, ND, Mountrail, ND, Ward, ND.
Tohono O'odham Nation of Arizona	Maricopa, AZ, Pima, AZ, Pinal, AZ.
Tonawanda Band of Seneca	Genesee, NY, Erie, NY, Niagara, NY.
Tonto Apache Tribe of Arizona	Gila, AZ.
Trenton Service Unit, North Dakota and Montana	Divide, ND[53], McKenzie, ND, Williams, ND, Richland, MT, Roosevelt, MT, Sheridan, MT.
Tulalip Tribes of Washington	Snohomish, WA.
Tunica-Biloxi Indian Tribe	Avoyelles, LA, Rapides, LA.[54]
Turtle Mountain Band of Chippewa Indians of North Dakota	Rolette, ND.
Tuscarora Nation	Niagara, NY.
Upper Sioux Community, Minnesota	Chippewa, MN, Yellow Medicine, MN.
Upper Skagit Indian Tribe	Skagit, WA.
Ute Indian Tribe of the Uintah & Ouray Reservation, Utah	Carbon, UT, Daggett, UT, Duchesne, UT, Emery, UT, Grand, UT, Rio Blanco, CO, Summit, UT, Uintah, UT, Utah, UT, Wasatch, UT.
Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.	Apache, AZ, La Plata, CO, Montezuma, CO, San Juan, NM, San Juan, UT.
Wampanoag Tribe of Gay Head (Aquinnah)	Dukes, MA[55], Barnstable, MA, Bristol, MA, Norfolk, MA, Plymouth, MA, Suffolk, MA.[56]
Washoe Tribe of Nevada & California	Nevada, California except for the counties listed in footnote.
White Mountain Apache Tribe of the Fort Apache Reservation, Arizona	Apache, AZ, Coconino, AZ, Gila, AZ, Graham, AZ, Greenlee, AZ, Navajo, AZ.
Wilton Rancheria, California	Sacramento, CA.[57]
Winnebago Tribe of Nebraska	Dakota, NE, Dixon, NE, Monona, IA, Thurston, NE, Wayne, NE, Woodbury, IA.
Yankton Sioux Tribe of South Dakota	Bon Homme, SD, Boyd, NE, Charles Mix, SD, Douglas, SD, Gregory, SD, Hutchinson, SD, Knox, NE.
Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona.	Yavapai, AZ.
Yavapai-Prescott Indian Tribe	Yavapai, AZ.
Ysleta Del Sur Pueblo of Texas	El Paso, TX.[1]

PURCHASED/REFERRED CARE SERVICE DELIVERY AREAS AND SERVICE DELIVERY AREAS—Continued

Tribe/Reservation	County/State
Zuni Tribe of the Zuni Reservation, New Mexico	Apache, AZ, Cibola, NM, McKinley, NM, Valencia, NM.

[1] Public Law 100–89, Restoration Act for Ysleta Del Sur and Alabama and Coushatta Tribes of Texas establishes service areas for "members of the Tribe" by sections 101(3) and 105(a) for the Pueblo and sections 201(3) and 206(a) respectively.

[2] Entire State of Alaska is included as a CHSDA by regulation (42 CFR 136.22(a)(1)).

[3] Aroostook Band of Micmacs was recognized by Congress on November 26, 1991, through the Aroostook Band of Micmac Settlement Act. Aroostook County, ME, was defined as the SDA.

[4] Special programs have been established by Congress irrespective of the eligibility regulations. Eligibility for services at these facilities is based on the legislative history of the appropriation of funds for the particular facility rather than the eligibility regulations. Historically services have been provided at Brigham City Intermountain School Health Center, Utah (Pub. L. 88–358).

[5] Entire State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura, is designated a CHSDA (25 U.S.C. 1680).

[6] The counties were recognized after the January 1984 CHSDA FRN was published, in accordance with Pub. L. 103–116, Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993, dated October 27, 1993.

[7] There is no reservation for the Cayuga Nation; the service delivery area consists of those counties identified by the Cayuga Nation.

[8] Skamania County, WA, has historically been a part of the Yakama Service Unit population since 1979.

[9] In order to carry out the Congressional intent of the Siletz Restoration Act, Pub. L. 95–195, as expressed in H. Report No. 95–623, at page 4, members of the Confederated Tribes of Siletz Indians of Oregon residing in these counties are eligible for contract health services.

[10] Chelan County, WA, has historically been a part of the Colville Service Unit population since 1970.

[11] Pursuant to Pub. L. 98–481 (H. Rept. No. 98–904), Coos, Lower Umpqua and Siuslaw Restoration Act, members of the Tribe residing in these counties were specified as eligible for Federal services and benefits without regard to the existence of a Federal Indian reservation.

[12] The Confederated Tribes of Grand Ronde Community of Oregon were recognized by Pub. L. 98–165 which was signed into law on November 22, 1983, and provides for eligibility in these six counties without regard to the existence of a reservation.

[13] The CHSDA for the Coushatta Tribe of Louisiana was expanded administratively by the Director, IHS, through regulation (42 CFR 136.22(6)) to include city limits of Elton, LA.

[14] Cow Creek Band of Umpqua Tribe of Indians recognized by Pub. L. 97–391, signed into law on December 29, 1983. House Rept. No. 97–862 designates Douglas, Jackson, and Josephine Counties as a service area without regard to the existence of a reservation. The IHS later administratively expanded the CHSDA to include the counties of Coos, OR, Deshutes, OR, Klamath, OR, and Lane, OR.

[15] The Cowlitz Indian Tribe was recognized in July 2002 as documented at 67 FR 46329, July 12, 2002. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Pub. L. 93–638. The CHSDA was administratively expanded to included Columbia County, OR, Kittitas, WA, and Wahkiakum County, WA, as published at 67884 FR December 21, 2009.

[16] Treasure County, MT, has historically been a part of the Crow Service Unit population.

[17] The counties listed have historically been a part of the Grand Traverse Service Unit population since 1980.

[18] Haskell Indian Health Center has historically been a part of Kansas Service Unit since 1979. Special programs have been established by Congress irrespective of the eligibility regulations. Eligibility for services at these facilities is based on the legislative history of the appropriation of funds for the particular facility rather than the eligibility regulations. Historically services have been provided at Haskell Indian Health Center (H. Rept. No. 95–392).

[19] CHSDA counties for the Ho-Chunk Nation of Wisconsin were designated by regulation (42 CFR 136.22(a)(5)). Dane County, WI, was added to the reservation by the Bureau of Indian Affairs in 1986.

[20] Public Law 97–428 provides that any member of the Houlton Band of Maliseet Indians in or around the Town of Houlton shall be eligible without regard to existence of a reservation.

[21] The Jena Band of Choctaw Indian was Federally acknowledged as documented at 60 FR 28480, May 31, 1995. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Pub. L. 93–638.

[22] Kickapoo Traditional Tribe of Texas, formerly known as the Texas Band of Kickapoo, was recognized by Pub. L. 97–429, signed into law on January 8, 1983. The Act provides for eligibility for Kickapoo Tribal members residing in Maverick County without regard to the existence of a reservation.

[23] The Klamath Indian Tribe Restoration Act (Pub. L. 99–398, Sec. 2(2)) states that for the purpose of Federal services and benefits "members of the tribe residing in Klamath County shall be deemed to be residing in or near a reservation".

[24] The Koi Nation of Northern California, formerly known as the Lower Lake Rancheria, was reaffirmed by the Secretary of the Bureau of Indian Affairs on December 29, 2000. The counties listed were designated administratively as the SDA, to function as a PRC SDA, for the purposes of operating a PRC program pursuant to the ISDEAA, Pub. L. 93–638.

[25] The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act recognized the Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians. Pursuant to Pub. L. 103–324, Sec.4(b) the counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Pub. L. 93–638.

[26] Mashantucket Pequot Indian Claims Settlement Act, Pub. L. 98–134, signed into law on October 18, 1983, provides a reservation for the Mashantucket Pequot Indian Tribe in New London County, CT.

[27] The Mashpee Wampanoag Tribe was recognized in February 2007, as documented at 72 FR 8007, February 22, 2007. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Pub. L. 93–638.

[28] The Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan was recognized in October 1998, as documented at 63 FR 56936, October 23, 1998. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Pub. L. 93–638.

[29] Members of the Mississippi Band of Choctaw Indians residing in Jasper and Noxubee Counties, MS, are eligible for contract health services; these two counties were inadvertently omitted from 42 CFR 136.22.

[30] Scott County, MS, has historically been a part of the Choctaw Service Unit population since 1970.

[31] The Narragansett Indian Tribe was recognized by Pub. L. 95–395, signed into law September 30, 1978. Lands in Washington County, RI, are now Federally restricted and the Bureau of Indian Affairs considers them as the Narragansett Indian Reservation.

[32] Entire State of Nevada is included as a CHSDA by regulation (42 CFR 136.22(a)(2)).

[33] Carter County, MT, has historically been a part of the Northern Cheyenne Service Unit population since 1979.

[34] Land of Box Elder County, Utah, was taken into trust for the Northwestern Band of Shoshoni Nation in 1986.

[35] The Nottawaseppi Huron Band of the Potawatomi, Michigan, formerly known as the Huron Band of Potawatomi, Inc., was recognized in December 1995, as documented at 60 FR 66315, December 21, 1995. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Pub. L. 93–638.

[36] Washabaugh County, SD, merged and became part of Jackson County, SD, in 1983; both were/are CHSDA counties for the Oglala Sioux Tribe.

[37] Entire State of Oklahoma is included as a CHSDA by regulation (42 CFR 136.22(a)(3)).

[38] Paiute Indian Tribe of Utah Restoration Act, Pub. L. 96–227, provides for the extension of services for the Paiute Indian Tribe of Utah to these four counties without regard to the existence of a reservation.

[39] Legislative history (H.R. Report No. 95–1021) to Pub. L.95–375, Extension of Federal Benefits to Pascua Yaqui Indians, Arizona, expresses congressional intent that lands conveyed to the Pascua Yaqui Tribe of Arizona pursuant to Act of October 8, 1964. (Pub. L. 88–350) shall be deemed a Federal Indian Reservation.

[40] The Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420; H. Rept. 96–1353) includes the intent of Congress to fund and provide contract health services to the Passamaquoddy Tribe and the Penobscot Nation.

[41] The Passamaquoddy Tribe has two reservations. The PRC SDA for the Passamaquoddy Tribe of Indian Township, ME, is Aroostook County, ME, and Washington County, ME. The PRC SDA for the Passamaquoddy Tribe of Pleasant Point, ME, is Aroostook County ME, and Washington County, ME, south of State Route 9.

[42] Counties in the Service Unit designated by Congress for the Poarch Band of Creek Indians (see H. Rept. 98–886, June 29, 1984; Cong. Record, October 10, 1984, Pg. H11929).

[43] Pub. L. 103–323 restored Federal recognition to the Pokagon Band of Potawatomi Indians, Michigan and Indiana, in 1994 and identified counties to serve as the SDA.

[44] The Ponca Restoration Act, Pub. L. 101–484, recognized members of the Ponca Tribe of Nebraska in Boyd, Douglas, Knox, Madison or Lancaster counties of Nebraska or Charles Mix county of South Dakota as residing on or near a reservation. Pub. L. 104–109 made technical corrections to laws relating to Native Americans and added Burt, Hall, Holt, Platte, Sarpy, Stanton, and Wayne counties of Nebraska and Pottawatomie and Woodbury counties of Iowa to the Ponca Tribe of Nebraska SDA.

[45] Special programs have been established by Congress irrespective of the eligibility regulations. Eligibility for services at these facilities is based on the legislative history of the appropriation of funds for the particular facility, rather than the eligibility regulations. Historically services have been provided at Rapid City (S. Rept. No. 1154, FY 1967 Interior Approp. 89th Cong. 2d Sess.).

[46] Historically part of Isabella Reservation Area for the Saginaw Chippewa Indian Tribe of Michigan and the Eastern Michigan Service Unit population since 1979.

[47] The Samish Indian Tribe Nation was Federally acknowledged in April 1996 as documented at 61 FR 15825, April 9, 1996. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Pub. L. 93–638.

[48] CHSDA counties for the Sault Ste. Marie Tribe of Chippewa Indians, Michigan, were designated by regulation (42 CFR 136.22(a)(4)).

[49] The Shinnecock Indian Nation was Federally acknowledged in June 2010 as documented at 75 FR 34760, June 18, 2010. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Pub. L. 93–638.

[50] Lemhi County, ID, has historically been a part of the Fort Hall Service Unit population since 1979.

[51] The Snoqualmie Indian Tribe was Federally acknowledged in August 1997 as documented at 62 FR 45864, August 29, 1997. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Pub. L. 93–638.

[52] On December 30, 2011 the Office of Assistant Secretary-Indian Affairs reaffirmed the Federal recognition of the Tejon Indian Tribe. The county listed was designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Pub. L. 93–638.

[53] The Secretary acting through the Service is directed to provide contract health services to Turtle Mountain Band of Chippewa Indians that reside in Trenton Service Unit, North Dakota and Montana, in Divide, Mackenzie, and Williams counties in the state of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the state of Montana (Sec. 815, Pub. L. 94–437).

[54] Rapides County, LA, has historically been a part of the Tunica Biloxi Service Unit population since 1982.

[55] According to Pub. L. 100–95, Sec. 12, members of the Wampanoag Tribe of Gay Head (Aquinnah) residing on Martha's Vineyard are deemed to be living on or near an Indian reservation for the purposes of eligibility for Federal services.

[56] The counties listed are designated administratively as the SDA, to function as a PRC SDA, for the purposes of operating a PRC program pursuant to the ISDEAA, Pub. L. 93–638.

[57] The Wilton Rancheria, California had Federal recognition restored in July 2009 as documented at 74 FR 33468, July 13, 2009. Sacramento County, CA, was designated administratively as the SDA, to function as a CHSDA. Sacramento County was not covered when Congress originally established the State of California as a CHSDA excluding certain counties including Sacramento County (25 U.S.C. 1680).

Dated: March 31, 2016.

Elizabeth A. Fowler,

Deputy Director for Management Operations, Indian Health Service.

[FR Doc. 2016–07951 Filed 4–6–16; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Notification of a Public Teleconference on American Indian/Alaska Native Lesbian, Gay, Bisexual, Transgender and Two-Spirit Health Issues

AGENCY: Indian Health Service.

ACTION: Notice of meeting.

SUMMARY: In 2015, the Indian Health Service (IHS) sought public input in writing and in person through a Notice of Request for Information (80 FR 32167) and two meetings in the Washington, DC area to gather feedback on best practices to advance and promote the health needs of the American Indian/Alaska Native (AI/AN) Lesbian, Gay, Bisexual, Transgender and Two-Spirit (LGBT2S) community (80 FR 43447 and 80 FR 51824). IHS is continuing to seek feedback from the LGBT2S community by holding a series of public teleconferences. In these teleconferences, participants will be asked to comment on several key dimensions of the health needs of the AI/AN LGBT2S community, including but not limited to the following questions:

a. Are there effective models and best practices surrounding the health care of the LGBT2S community that should be considered for replication?

b. What are the specific measures that could be used to track progress in improving the health of LGBT2S persons?

c. How can IHS better engage with stakeholders around the implementation of improvements?

d. Are there gaps or disparities in existing IHS services offered to LGBT2S persons?

e. What additional information should the agency consider while developing plans to improve health care for the LGBT2S community?

DATES: The first public teleconference will be held on May 5, 2016 from 3:00 p.m. to 5:00 p.m. (Eastern Standard Time).

ADDRESSES: The teleconference will be conducted by telephone only. Please see **SUPPLEMENTARY INFORMATION** for the call-in information.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information regarding this public teleconference may contact Lisa Neel, MPH, Program Coordinator, Office of Clinical and Preventive Services, Indian Health Service, 5600 Fishers Lane, Mailstop 08N34A, Rockville, MD 20857, Telephone 301–443–4305. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This meeting is open to the public. The virtual meeting is available via teleconference line and will accommodate 200 people. Join the meeting by calling the toll free phone number at 800–857–9744 and providing the public participant passcode number: 3618057. Participants should call and connect 15 minutes prior to the meeting in order for logistics to be set up. Call

301–443–4305 or send an email to *lisa.neel@ihs.gov* with questions. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed below at least 10 days prior to the meeting. Members of the public may make statements during the teleconference to the extent time permits and file written statements with the agency for its consideration. In general, individuals or groups requesting to present an oral statement at a public teleconference will be limited to three minutes per speaker. Written statements should be submitted to Lisa Neel, MPH, Program Coordinator, Office of Clinical and Preventive Services, Indian Health Service, 5600 Fishers Lane, Mailstop 08N34A, Rockville, MD 20857.

Dated: March 25, 2016.

Elizabeth A. Fowler,

Deputy Director for Management Operations, Indian Health Service.

[FR Doc. 2016–07952 Filed 4–6–16; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Office of Direct Service and Contracting Tribes; Tribal Management Grant Program

Announcement Type: New and Competing Continuation.

Funding Announcement Number: HHS–2016–IHS–TMD–0001.

Catalog of Federal Domestic Assistance Number: 93.228.

Key Dates

Application Deadline Date: June 8, 2016.

Review Date: June 20–24, 2016.

Earliest Anticipated Start Date: September 1, 2016.

Signed Tribal Resolutions Due Date: June 8, 2016.

Proof of Non-Profit Status Due Date: June 8, 2016.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) is accepting competitive grant applications for the Tribal Management Grant (TMG) program. This program is authorized under 25 U.S.C. 450h(b)(2) and 25 U.S.C. 450h(e) of the Indian Self-Determination and Education Assistance Act (ISDEAA), Public Law (Pub. L.) 93–638, as amended. This program is described in the Catalog of Federal Domestic Assistance (CFDA) under 93.228.

Background

The TMG Program is a competitive grant program that is capacity building and developmental in nature and has been available for Federally-recognized Indian Tribes and Tribal organizations (T/TO) since shortly after the passage of the ISDEAA in 1975. It was established to assist T/TO to prepare for assuming all or part of existing IHS programs, functions, services, and activities (PFSAs) and further develop and improve their health management capability. The TMG Program provides competitive grants to T/TO to establish goals and performance measures for current health programs; assess current management capacity to determine if new components are appropriate; analyze programs to determine if T/TO management is practicable; and develop infrastructure systems to manage or organize PFSAs.

Purpose

The purpose of this IHS grant announcement is to announce the availability of the TMG Program to enhance and develop health management infrastructure and assist T/TO in assuming all or part of existing IHS PSFAs through a Title I contract and assist established Title I contractors and Title V compactors to further develop and improve their management capability. In addition, TMGs are available to T/TO under the authority of 25 U.S.C. 450h(e) for (1) obtaining technical assistance from providers designated by the T/TO (including T/TO that operate mature contracts) for the purposes of program planning and evaluation, including the development of any management systems necessary for contract management and the development of cost allocation plans for indirect cost rates; and (2) planning, designing, monitoring, and evaluating Federal programs serving the T/TO, including Federal administrative functions.

II. Award Information

Type of Award

Grant.

Estimated Funds Available

The total amount of funding identified for the current fiscal year (FY) 2017Mi is approximately $2,412,000. Individual award amounts are anticipated to be between $50,000 and $100,000. The amount of funding available for new and competing continuation awards issued under this announcement is subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately 16–18 awards will be issued under this program announcement.

Project Period

The project periods vary based on the project type selected. Project periods could run from one, two, or three years and will run consecutively from the earliest anticipated start date of September 1, 2016 through August 31, 2017 for one year projects; September 1, 2016 through August 31, 2018 for two year projects; and September 1, 2016 through August 31, 2019 for three year projects. Please refer to "Eligible TMG Project Types, Maximum Funding Levels and Project Periods" below for additional details. State the number of years for the project period and include the exact dates.

III. Eligibility Information

1. Eligibility

Eligible Applicants: "Indian Tribes" and "Tribal organizations" (T/TO) as defined by the ISDEAA are eligible to apply for the TMG Program. The definitions for each entity type are outlined below. Only one application per T/TO is allowed.

Definitions: "Indian Tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 *et seq.*], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. 25 U.S.C. 450b(e).

"Tribal organization" means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities. 25 U.S.C. 450b(l).

Tribal organizations must provide proof of non-profit status.

Eligible TMG Project Types, Maximum Funding Levels and Project Periods

The TMG Program consists of four project types: (1) Feasibility study; (2)

planning; (3) evaluation study; and (4) health management structure. Applicants may submit applications for one project type only. Applicants must state the project type selected. Applications that address more than one project type will be considered ineligible. The maximum funding levels noted include both direct and indirect costs. Applicant budgets may not exceed the maximum funding level or project period identified for a project type. Applicants whose budget or project period exceed the maximum funding level or project period will be deemed ineligible and will not be reviewed. Please refer to Section IV.5, "Funding Restrictions" for further information regarding ineligible project activities.

1. FEASIBILITY STUDY (Maximum funding/project period: $70,000/12 months)

The Feasibility Study must include a study of a specific IHS program or segment of a program to determine if Tribal management of the program is possible. The study shall present the planned approach, training, and resources required to assume Tribal management of the program. The study must include the following four components:

- Health needs and health care services assessments that identify existing health care services and delivery systems, program divisibility issues, health status indicators, unmet needs, volume projections, and demand analysis.
- Management analysis of existing management structures, proposed management structures, implementation plans and requirements, and personnel staffing requirements and recruitment barriers.
- Financial analysis of historical trends data, financial projections and new resource requirements for program management costs and analysis of potential revenues from Federal/non-Federal sources.
- Decision statement/report that incorporates findings, conclusions and recommendations; the presentation of the study and recommendations to the Tribal governing body for determination regarding whether Tribal assumption of program(s) is desirable or warranted.

2. PLANNING (Maximum funding/project period: $50,000/12 months)

Planning projects entail a collection of data to establish goals and performance measures for the operation of current health programs or anticipated PFSAs under a Title I contract. Planning projects will specify the design of health programs and the management systems (including appropriate policies and procedures) to accomplish the health priorities of the T/TO. For example, planning projects could include the development of a Tribal Specific Health Plan or a Strategic Health Plan, etc. Please note that updated Healthy People information and Healthy People 2020 objectives are available in electronic format at the following Web site: *http://www.health.gov/healthypeople/publications*. The Public Health Service (PHS) encourages applicants submitting strategic health plans to address specific objectives of Healthy People 2020.

3. EVALUATION STUDY (Maximum funding/project period: $50,000/12 months)

The Evaluation Study must include a systematic collection, analysis, and interpretation of data for the purpose of determining the value of a program. The extent of the evaluation study could relate to the goals and objectives, policies and procedures, or programs regarding targeted groups. The evaluation study could also be used to determine the effectiveness and efficiency of a Tribal program operation (*i.e.*, direct services, financial management, personnel, data collection and analysis, third-party billing, etc.), as well as to determine the appropriateness of new components of a Tribal program operation that will assist Tribal efforts to improve their health care delivery systems.

4. HEALTH MANAGEMENT STRUCTURE (Average funding/project period: $100,000/12 months; maximum funding/project period: $300,000/36 months)

The first year maximum funding level is limited to $150,000 for multi-year projects. The Health Management Structure component allows for implementation of systems to manage or organize PFSAs. Management structures include health department organizations, health boards, and financial management systems, including systems for accounting, personnel, third-party billing, medical records, management information systems, etc. This includes the design, improvement, and correction of management systems that address weaknesses identified through quality control measures, internal control reviews, and audit report findings under required financial audits and ISDEAA requirements.

For the minimum standards for the management systems used by Indian T/TO when carrying out self-determination contracts, please see 25 CFR part 900, Contracts Under the Indian Self-Determination and Education Assistance Act, Subpart F—"Standards for Tribal or Tribal Organization Management Systems," §§ 900.35 through 900.60. For operational provisions applicable to carrying out self-governance compacts, please see 42 CFR part 137, Tribal Self-Governance, Subpart I—"Operational Provisions" §§ 137.160 through 137.220.

Please see Section IV "Application and Submission Information" for information on how to obtain a copy of the TMG application package.

To be eligible for this "New/Competing, Continuation Announcement," an applicant must be one of the following as defined by 25 U.S.C. 450b:

i. An Indian Tribe, as defined by 25 U.S.C. 450b(e); or

ii. A Tribal organization, as defined by 25 U.S.C. 450b(l).

Note: Please refer to Section IV.2 (Application and Submission Information/Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required such as Tribal resolutions, proof of non-profit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the "Estimated Funds Available" section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the Division of Grants Management (DGM) of this decision.

The following documentation is required:

Tribal Resolution

A. An Indian Tribe or Tribal organization that is proposing a project affecting another Indian Tribe must include *resolutions from all affected Tribes to be served*. Applications by Tribal organizations will not require a specific Tribal resolution if the current Tribal resolution(s) under which they operate would encompass the proposed grant activities.

An official signed Tribal resolution must be received by the DGM prior to a Notice of Award being issued to any applicant selected for funding. However, if an official signed Tribal resolution cannot be submitted with the electronic application submission prior to the official application deadline date, a draft Tribal resolution must be submitted by the deadline in order for the application to be considered complete and eligible for review. The draft Tribal resolution is not in lieu of the required signed resolution, but is acceptable until a signed resolution is received. If an official signed Tribal resolution is not received by DGM when funding decisions are made, then a Notice of Award will not be issued to that applicant and they will not receive any IHS funds until such time as they have submitted a signed resolution to the Grants Management Specialist listed in this Funding Announcement.

B. Tribal organizations applying for technical assistance and/or training grants must submit documentation that the Tribal organization is applying upon the request of the Indian Tribe/Tribes it intends to serve.

C. Documentation for Priority I participation requires a copy of the **Federal Register** notice or letter from the Bureau of Indian Affairs verifying establishment of Federally-recognized Tribal status within the last five years. The date on the documentation must reflect that Federal recognition was received during or after March 2012.

D. Documentation for Priority II participation requires a copy of the most current transmittal letter and Attachment A from the Department of Health and Human Services (HHS), Office of Inspector General (OIG), National External Audit Review Center (NEAR). See "FUNDING PRIORITIES" below for more information. If an applicant is unable to locate a copy of the most recent transmittal letter or needs assistance with audit issues, information or technical assistance may be obtained by contacting the IHS, Office of Finance and Accounting, Division of Audit at (301) 443–1270, or the NEAR help line at (800) 732–0679 or (816) 426–7720. Federally-recognized Indian Tribes or Tribal organizations not subject to Single Audit Act requirements must provide a financial statement identifying the Federal dollars in the footnotes. The financial statement must also identify specific weaknesses/recommendations that will be addressed in the TMG proposal and that are related to 25 CFR part 900, subpart F—"Standards for Tribal and Tribal Organization Management Systems."

E. Documentation of Consortium participation—If an Indian Tribe submitting an application is a member of an eligible intertribal consortium, the Tribe must:

—Identify the consortium.
—Indicate if the consortium intends to submit a TMG application.
—Demonstrate that the Tribe's application does not duplicate or overlap any objectives of the consortium's application.
—Identify all consortium member Tribes.
—Identify if any of the member Tribes intend to submit a TMG application of their own.
—Demonstrate that the consortium's application does not duplicate or overlap any objectives of the other consortium members who may be submitting their own TMG application.

FUNDING PRIORITIES: The IHS has established the following funding priorities for TMG awards:

- PRIORITY I—Any Indian Tribe that has received Federal recognition (including restored, funded, or unfunded) within the past five years, specifically received during or after March 2011, will be considered Priority I.
- PRIORITY II—Federally-recognized Indian Tribes or Tribal organizations submitting a competing continuation application or a new application for the sole purpose of addressing audit material weaknesses will be considered Priority II.

Priority II participation is only applicable to the Health Management Structure project type. For more information, see "Eligible TMG Project Types, Maximum Funding Levels and Project Periods" in Section II.

- PRIORITY III—Eligible Direct Service and Title I Federally-recognized Indian Tribes or Tribal organizations submitting a competing continuation application or a new application will be considered Priority III.
- PRIORITY IV—Eligible Title V Self Governance Federally-recognized Indian Tribes or Tribal organizations submitting a competing continuation or a new application will be considered Priority IV.

The funding of approved Priority I applicants will occur before the funding of approved Priority II applicants. Priority II applicants will be funded before approved Priority III applicants. Priority III applicants will be funded before Priority IV applicants. Funds will be distributed until depleted.

The following definitions are applicable to the PRIORITY II category:

Audit finding means deficiencies which the auditor is required by 45 CFR 75.516, to report in the schedule of findings and questioned costs.

Material weakness—"Statements on Auditing Standards 115" defines material weakness as a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Significant deficiency—Statements on Auditing Standards 115 defines significant deficiency as a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

The audit findings are identified in Attachment A of the transmittal letter received from the HHS/OIG/NEAR. Please identify the material weaknesses to be addressed by underlining the item(s) listed on the Attachment A.

Federally-recognized Indian Tribes or Tribal organizations not subject to Single Audit Act requirements must provide a financial statement identifying the Federal dollars received in the footnotes. The financial statement should also identify specific weaknesses/recommendations that will be addressed in the TMG proposal and that are related to 25 CFR part 900, subpart F—"Standards for Tribal and Tribal Organization Management Systems."

Proof of Non-Profit Status

Organizations claiming non-profit status must submit proof. A copy of the 501(c)(3) Certificate must be received with the application submission by the Application Deadline Date listed under the Key Dates section on page one of this announcement.

An applicant submitting any of the above additional documentation after the initial application submission due date is required to ensure the information was received by the IHS by obtaining documentation confirming delivery (*i.e.*, FedEx tracking, postal return receipt, etc.).

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at *http://www.Grants.gov* or *https://www.ihs.gov/dgm/funding/*.

Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443–2114 or (301) 443–5204.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.

- Application forms:
  - ○ SF–424, Application for Federal Assistance.
  - ○ SF–424A, Budget Information—Non-Construction Programs.
  - ○ SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single spaced and not exceed five pages).
- Project Narrative (must be single spaced and not exceed 15 pages).
  - ○ Background information on the organization.
  - ○ Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- Tribal resolution.
- 501(c)(3) Certificate (if applicable).
- Position descriptions for key personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required) in order to receive IDC.
- Organizational Chart (optional).
- Documentation of current Office of Management and Budget Audit, as required by 45 CFR part 75, subpart F or other required Financial Audit (if applicable).
  - ○ Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
  - ○ Face sheets from audit reports. These can be found on the FAC Web site: *http://harvester.census.gov/sac/dissem/accessoptions.html?submit=Go+To+Database.*

Public Policy Requirements

All Federal-wide public policies apply to IHS grants and cooperative agreements with exception of the discrimination policy.

Requirements for Project and Budget Narratives

A. Project Narrative: This narrative should be a separate Word document that is no longer than 15 pages and must: Be single-spaced, be type written, have consecutively numbered pages, use black type not smaller than 12 characters per one inch, and be printed on one side only of standard size 8½″ x 11″ paper.

Be sure to succinctly address and answer all questions listed under the narrative and place them under the evaluation criteria (refer to section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section (noted below), or they shall not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming familiar with the applicant's activities and accomplishments prior to this grant award. If the narrative exceeds the page limit, only the first 15 pages will be reviewed. The 15-page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

Part A: Program Information (2 Page Limitation)

Section 1: Needs

Describe how the T/TO has determined the need to either enhance or develop its management capability to either assume PFSAs or not in the interest of self-determination. Note the progression of previous TMG projects/awards if applicable.

Part B: Program Planning and Evaluation (11 Page Limitation)

Section 1: Program Plans

Describe fully and clearly the direction the T/TO plans to take with the selected TMG project type in addressing their health management infrastructure including how the T/TO plans to demonstrate improved health and services to the community or communities it serves. Include proposed timelines.

Section 2: Program Evaluation

Describe fully and clearly the improvements that will be made by the T/TO that will impact their management capability or prepare them for future improvements to their organization that will allow them to manage their health care system and identify the anticipated or expected benefits for the Tribe.

Part C: Program Report (2 Page Limitation)

Section 1: Describe major accomplishments over the last 24 months.

Please identify and describe significant program achievements associated with the delivery of quality health services. Provide a comparison of the actual accomplishments to the goals established for the project period, or if applicable, provide justification for the lack of progress.

Section 2: Describe major activities over the last 24 months.

Please identify and summarize recent major health related project activities of the work done during the project period.

B. Budget Narrative: This narrative must include a line item budget with a narrative justification for all expenditures identifying reasonable and allowable costs necessary to accomplish the goals and objectives as outlined in the project narrative. Budget should match the scope of work described in the project narrative. The page limitation should not exceed five pages.

3. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by 11:59 p.m. Eastern Daylight Time (EDT) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. Grants.gov will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the electronic application process, contact Grants.gov Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Paul Gettys (*Paul.Gettys@ihs.gov*), DGM Grant Systems Coordinator, by telephone at (301) 443–2114 or (301) 443–5204. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a Grants.gov tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

If the applicant needs to submit a paper application instead of submitting electronically through Grants.gov, a waiver must be requested. Prior approval must be requested and obtained from Mr. Robert Tarwater, Director, DGM (see Section IV.6 below for additional information). The waiver must: (1) Be documented in writing (emails are acceptable), *before* submitting a paper application, and (2) include clear justification for the need to deviate from the required electronic grants submission process. A written waiver request must be sent to *GrantsPolicy@ihs.gov* with a copy to *Robert.Tarwater@ihs.gov.* Once the waiver request has been approved, the applicant will receive a confirmation of approval email containing submission instructions and the mailing address to submit the application. A copy of the written approval *must* be submitted along with the hardcopy of the application that is mailed to DGM. Paper applications that are submitted without a copy of the signed waiver from the Senior Grants Policy Analyst of the DGM will not be reviewed or considered for funding. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant will be awarded per applicant.
- IHS will not acknowledge receipt of applications.
- The TMG may not be used to support recurring operational programs or to replace existing public and private resources. Funding received under a recurring Public Law 93–638 contract cannot be totally supplanted or totally replaced. Exception is allowed to charge a portion or percentage of salaries of existing staff positions involved in implementing the TMG grant, if applicable. However, this percentage of TMG funding must reflect supplementation of funding for the project and not supplantation of existing ISDEAA contract funds. Supplementation is "adding to a program" whereas supplantation is "taking the place of" funds. An entity cannot use the TMG funds to supplant the ISDEAA contract or recurring funding.
- Ineligible Project Activities—The inclusion of the following projects or activities in an application will render the application ineligible.
  - ○ Planning and negotiating activities associated with the intent of a Tribe to enter the IHS Self-Governance Project. A separate grant program is administered by the IHS for this purpose. Prospective applicants interested in this program should contact Mr. Jeremy Marshall, Policy Analyst, Office of Tribal Self-Governance, Indian Health Service, 5600 Fishers Lane, Mail Stop 08E05, Rockville, MD 20857, (301) 443–7821, and request information concerning the "Tribal Self-Governance Program Planning Cooperative Agreement Announcement" or the "Negotiation Cooperative Agreement Announcement."
  - ○ Projects related to water, sanitation, and waste management.
  - ○ Projects that include direct patient care and/or equipment to provide those medical services to be used to establish or augment or continue direct patient clinical care. Medical equipment that is allowable under the Special Diabetes Program for Indians is not allowable under the TMG Program.
  - ○ Projects that include recruitment efforts for direct patient care services.
  - ○ Projects that include long-term care or provision of any direct services.
  - ○ Projects that include tuition, fees, or stipends for certification or training of staff to provide direct services.
  - ○ Projects that include pre-planning, design, and planning of construction for facilities, including activities relating to program justification documents.
  - ○ Projects that propose more than one project type. Refer to Section II, "Award Information," specifically "Eligible TMG Project Types, Maximum Funding Levels and Project Periods" for more information. An example of a proposal with more than one project type that would be considered ineligible may include the creation of a strategic health plan (defined by TMG as a planning project type) and improving third-party billing structures (defined by TMG as a health management structure project type). Multi-year applications that include in the first year planning, evaluation, or feasibility activities with the remainder of the project years addressing management structure are also deemed ineligible.
  - ○ Any Alaska Native Village that is neither a Title I nor a Title V organization and does not have the legal authority to contract services under 450(b) of the ISDEAA as it is affiliated with one of the Alaska health corporations as a consortium member and has all of its IHS funding for the Village administered through an Alaska health corporation, a Title V compactor, is not eligible for consideration under the TMG program.

Moreover, Congress has reenacted its moratorium in Alaska on new contracting under the ISDEAA with Alaska Native Tribes that do not already have contracts or compacts with the IHS under this Act. See the Consolidated Appropriations Act, 2014 (Jan. 17, 2014), Public Law 113–76, 128 Stat. 5, 343–44:

SEC. 424. (a) Notwithstanding any other provision of law and until October 1, 2018, the Indian Health Service may not disburse funds for the provision of health care services pursuant to Public Law 93–638 (25 U.S.C. 450 *et seq.*) to any Alaska Native village or Alaska Native village corporation that is located within the area served by an Alaska Native regional health entity.

Consequently, Alaska Native Villages will not have any opportunity to enter into an ISDEAA contract with the IHS until this law lapses on October 1, 2018.

- Other Limitations—A current TMG recipient cannot be awarded a new, renewal, or competing continuation grant for any of the following reasons:
  - ○ The grantee will be administering two TMGs at the same time or have overlapping project/budget periods;
  - ○ The current project is not progressing in a satisfactory manner;
  - ○ The current project is not in compliance with program and financial reporting requirements; or
  - ○ The applicant has an outstanding delinquent Federal debt. No award shall be made until either:
    - ▪ The delinquent account is paid in full; or
    - ▪ A negotiated repayment schedule is established and at least one payment is received.

6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* Web site to submit an application electronically and select the "Find Grant Opportunities" link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the *http://www.Grants.gov* Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If the applicant receives a waiver to submit paper application documents, the applicant must follow the rules and timelines that are noted below. The applicant must seek assistance at least ten days prior to the Application Deadline Date listed in the Key Dates section on page one of this announcement.

Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact Grants.gov Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting Grants.gov, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- If it is determined that a waiver is needed, the applicant must submit a request in writing (emails are acceptable) to *GrantsPolicy@ihs.gov* with a copy to *Robert.Tarwater@ihs.gov*. Please include a clear justification for the need to deviate from the standard electronic submission process.
- If the waiver is approved, the application should be sent directly to the DGM by the Application Deadline Date listed in the Key Dates section on page one of this announcement.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through Grants.gov as the registration process for SAM and Grants.gov could take up to fifteen working days.
- Please use the optional attachment feature in Grants.gov to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this funding announcement.
- After electronically submitting the application, the applicant will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The DGM will download the application from Grants.gov and provide necessary copies to the appropriate agency officials. Neither the DGM nor the Office of Direct Service and Contracting Tribes (ODSCT) will notify the applicant that the application has been received.
- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, please access it through *http://fedgov.dnb.com/webform*, or to expedite the process, call (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended ("Transparency Act"), to report information on sub-awards. Accordingly, all IHS grantees must notify potential first-tier sub-recipients that no entity may receive a first-tier sub-award unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at *https://www.sam.gov*.

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site: *https://www.ihs.gov/dgm/policytopics/*.

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The 15-page narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See "Multi-Year Project Requirements" at the end of this section for more information. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 60 points is required for funding. Points are assigned as follows:

1. Criteria

A. Introduction and Need for Assistance (20 Points)

(1) Describe the T/TO's current health operation. Include what programs and services are currently provided (*i.e.*, Federally-funded, State-funded, etc.), information regarding technologies currently used (*i.e.*, hardware, software, services, etc.), and identify the source(s) of technical support for those technologies (*i.e.*, Tribal staff, area office, vendor, etc.). Include information regarding whether the T/TO has a health department and/or health board and how long it has been operating.

(2) Describe the population to be served by the proposed project. Include the number of eligible IHS beneficiaries who currently use the services.

(3) Describe the geographic location of the proposed project including any geographic barriers to the health care users in the area to be served.

(4) Identify all TMGs received since FY 2011, dates of funding and a summary of project accomplishments. State how previous TMG funds facilitated the progression of health development relative to the current proposed project. (Copies of reports will not be accepted.)

(5) Identify the eligible project type and priority group of the applicant.

(6) Explain the need/reason for the proposed project by identifying specific gaps or weaknesses in services or infrastructure that will be addressed by the proposed project. Explain how these gaps/weaknesses have been assessed.

(7) If the proposed project includes information technology (*i.e.*, hardware, software, etc.), provide further information regarding measures taken or to be taken that ensure the proposed project will not create other gaps in services or infrastructure (*i.e.*, negatively affect or impact IHS interface capability, Government Performance and Results Act reporting requirements, contract reporting requirements, Information Technology (IT) compatibility, etc.) if applicable.

(8) Describe the effect of the proposed project on current programs (*i.e.*, Federally-funded, State-funded, etc.)

and, if applicable, on current equipment (*i.e.,* hardware, software, services, etc.). Include the effect of the proposed project on planned/anticipated programs and/or equipment.

(9) Address how the proposed project relates to the purpose of the TMG Program by addressing the appropriate description that follows:

- Identify if the T/TO is an IHS Title I contractor. Address if the self-determination contract is a master contract of several programs or if individual contracts are used for each program. Include information regarding whether or not the Tribe participates in a consortium contract (*i.e.,* more than one Tribe participating in a contract). Address what programs are currently provided through those contracts and how the proposed project will enhance the organization's capacity to manage the contracts currently in place.
- Identify if the T/TO is not a Title I organization. Address how the proposed project will enhance the organization's management capabilities, what programs and services the organization is currently seeking to contract and an anticipated date for contract.
- Identify if the T/TO is an IHS Title V compactor. Address when the T/TO entered into the compact and how the proposed project will further enhance the organization's management capabilities.

B. Project Objective(s), Work Plan and Approach (40 Points)

(1) Identify the proposed project objective(s) addressing the following:

- Objectives must be measureable and (if applicable) quantifiable.
- Objectives must be results oriented.
- Objectives must be time-limited.

Example: By installing new third-party billing software, the Tribe will increase the number of bills processed by 15 percent at the end of 12 months.

(2) Address how the proposed project will result in change or improvement in program operations or processes for each proposed project objective. Also address what tangible products are expected from the project (*i.e.,* policies and procedures manual, health plan, etc.).

(3) Address the extent to which the proposed project will build local capacity to provide, improve, or expand services that address the need(s) of the target population.

(4) Submit a work plan in the Appendix which includes the following information:

- Provide the action steps on a timeline for accomplishing the proposed project objective(s).
- Identify who will perform the action steps.
- Identify who will supervise the action steps taken.
- Identify what tangible products will be produced during and at the end of the proposed project.
- Identify who will accept and/or approve work products during the duration of the proposed project and at the end of the proposed project.
- Include any training that will take place during the proposed project and who will be providing and attending the training.
- Include evaluation activities planned in the work plans.

(5) If consultants or contractors will be used during the proposed project, please include the following information in their scope of work (or note if consultants/contractors will not be used):

- Educational requirements.
- Desired qualifications and work experience.
- Expected work products to be delivered on a timeline.

If a potential consultant/contractor has already been identified, please include a resume in the Appendix.

(6) Describe what updates (*i.e.,* revision of policies/procedures, upgrades, technical support, etc.) will be required for the continued success of the proposed project. Include when these updates are anticipated and where funds will come from to conduct the update and/or maintenance.

C. Program Evaluation (20 Points)

Each proposed objective requires an evaluation component to assess its progression and ensure its completion. Also, include the evaluation activities in the work plan.

Describe the proposed plan to evaluate both outcomes and processes. Outcome evaluation relates to the results identified in the objectives, and process evaluation relates to the work plan and activities of the project.

(1) For outcome evaluation, describe:

- What will the criteria be for determining success of each objective?
- What data will be collected to determine whether the objective was met?
- At what intervals will data be collected?
- Who will collect the data and their qualifications?
- How will the data be analyzed?
- How will the results be used?

(2) For process evaluation, describe:

- How will the project be monitored and assessed for potential problems and needed quality improvements?
- Who will be responsible for monitoring and managing project improvements based on results of ongoing process improvements and their qualifications?
- How will ongoing monitoring be used to improve the project?
- Describe any products, such as manuals or policies, that might be developed and how they might lend themselves to replication by others.
- How will the organization document what is learned throughout the project period?

(3) Describe any evaluation efforts planned after the grant period has ended.

(4) Describe the ultimate benefit to the Tribe that is expected to result from this project. An example of this might be the ability of the Tribe to expand preventive health services because of increased billing and third party payments.

D. Organizational Capabilities, Key Personnel and Qualifications (15 Points)

This section outlines the broader capacity of the organization to complete the project outlined in the work plan. It includes the identification of personnel responsible for completing tasks and the chain of responsibility for successful completion of the projects outlined in the work plan.

(1) Describe the organizational structure of the T/TO beyond health care activities, if applicable.

(2) Provide information regarding plans to obtain management systems if the T/TO does not have an established management system currently in place that complies with 25 CFR part 900, subpart F, "Standards for Tribal or Tribal Organization Management Systems." State if management systems are already in place and how long the systems have been in place.

(3) Describe the ability of the organization to manage the proposed project. Include information regarding similarly sized projects in scope and financial assistance as well as other grants and projects successfully completed.

(4) Describe what equipment (*i.e.,* fax machine, phone, computer, etc.) and facility space (*i.e.,* office space) will be available for use during the proposed project. Include information about any equipment not currently available that will be purchased through the grant.

(5) List key personnel who will work on the project. Include all titles of key personnel in the work plan. In the Appendix, include position descriptions and resumes for all key personnel. Position descriptions should clearly describe each position and duties, indicating desired qualifications and experience requirements related to the proposed project. Resumes must

indicate that the proposed staff member is qualified to carry out the proposed project activities. If a position is to be filled, indicate that information on the proposed position description.

(6) Address how the T/TO will sustain the position(s) after the grant expires if the project requires additional personnel (*i.e.*, IT support, etc.). State if there is no need for additional personnel.

(7) If the personnel are to be only partially funded by this grant, indicate the percentage of time to be allocated to the project and identify the resources used to fund the remainder of the individual's salary.

E. Categorical Budget and Budget Justification (5 Points)

(1) Provide a categorical budget for each of the 12-month budget periods requested.

(2) If indirect costs are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the rate agreement in the Appendix.

(3) Provide a narrative justification explaining why each categorical budget line item is necessary and relevant to the proposed project. Include sufficient cost and other details to facilitate the determination of cost allowability (*i.e.*, equipment specifications, etc.).

Multi-Year Project Requirements

For projects requiring a second and/or third year, include only Year 2 and/or Year 3 narrative sections (objectives, evaluation components and work plan) that differ from those in Year 1. For every project year, include a full budget justification and a detailed, itemized categorical budget showing calculation methodologies for each item. The same weights and criteria which are used to evaluate a one-year project or the first year of a multi-year project will be applied when evaluating the second and third years of a multi-year application. A weak second and/or third year submission could negatively impact the overall score of an application and result in elimination of the proposed second and/or third years with a recommendation for only a one-year award.

Appendix Items

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart.
- Additional documents to support narrative (*i.e.*, data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on evaluation criteria in this funding announcement. The ORC could be composed of both Tribal and Federal reviewers appointed by the IHS program to review and make recommendations on these applications. The technical review process ensures selection of quality projects in a national competition for limited funding. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Applicants will be notified by DGM, via email, to outline minor missing components (*i.e.*, budget narratives, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must address all program requirements and provide all required documentation.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval (60 points) and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the ODSCT within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application submitted. The ODSCT will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved But Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be "Approved," but were not funded due to lack of funding, will have their applications held by DGM for a period of one year. If additional funding becomes available during the course of FY 2016 the approved but unfunded application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS grants management official announcing to the project director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

2. Administrative Requirements

Grants are administered in accordance with the following regulations, policies, and OMB cost principles:

A. The criteria as outlined in this program announcement.

B. Uniform Administrative Regulations for Grants:

- Uniform Administrative Requirements for HHS Awards, located at 45 CFR part 75.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Uniform Administrative Requirements for HHS Awards, "Cost Principles," located at 45 CFR part 75, subpart E.

E. Audit Requirements:

- Uniform Administrative Requirements for HHS Awards, "Audit Requirements," located at 45 CFR part 75, subpart F.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *https://www.doi.gov/ibc/services/finance/indirect-Cost-Services/indian-tribes.* For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under "Agency Contacts" or the main DGM office at (301) 443–5204.

4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports are required to be submitted electronically by attaching them as a "Grant Note" in GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Reports

Federal Financial Report FFR (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Payment Management Services, HHS at: *http://www.dpm.psc.gov.* It is recommended that the applicant also send a copy of the FFR (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 sub-award obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: (1) The project period start date was October 1, 2010 or after and (2) the primary awardee will have a $25,000 sub-award obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting. For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Policy Web site at: *https://www.ihs.gov/dgm/policytopics/.*

D. Compliance With Executive Order 13166 Implementation of Services Accessibility Provisions for All Grant Application Packages and Funding Opportunity Announcements

Recipients of federal financial assistance (FFA) from HHS must administer their programs in compliance with federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age and, in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. HHS provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency. Please see *http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/.*

The HHS Office for Civil Rights (OCR) also provides guidance on complying with civil rights laws enforced by HHS. Please see *http://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html;* and *http://www.hhs.gov/civil-rights/index.html.* Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see *http://www.hhs.gov/civil-rights/for-individuals/disability/index.html.* Please contact the HHS OCR for more information about obligations and prohibitions under federal civil rights laws at *http://www.hhs.gov/civil-rights/for-individuals/disability/index.html* or call 1–800–368–1019 or TDD 1–800–537–7697. Also note it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at *http://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53.*

Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of his/her exclusion from benefits limited by federal law to individuals eligible for benefits and services from the Indian Health Service.

Recipients will be required to sign the HHS–690 Assurance of Compliance form which can be obtained from the following Web site: *http://www.hhs.gov/sites/default/files/forms/hhs-690.pdf,* and send it directly to the: U.S. Department of Health and Human Services, Office of Civil Rights, 200 Independence Ave. SW., Washington, DC 20201.

E. Federal Awardee Performance and Integrity Information System (FAPIIS)

The Indian Health Service (IHS), is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIIS) before making any award in excess of the simplified acquisition threshold (currently $150,000) over the period of performance. An applicant may review and comment on any information about itself that a federal awarding agency previously entered. IHS will consider any comments by the applicant, in addition to other information in FAPIIS in making a judgment about the applicant's integrity, business ethics, and record of performance under federal awards when completing the review of risk posed by applicants as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10,000,000 for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, effective January 1, 2016, the Indian Health Service must require a non-federal entity or an applicant for a federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of federal criminal law involving fraud, bribery,or gratutity violations potentially affecting the federal award.

Submission is required for all applicants and recipients, in writing, to the Indian Health Service and to the HHS Office of Inspector General (OIG) all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. 45 CFR 75.113

Disclosures must be sent in writing to:
U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Robert Tarwater, Director, 5600 Fishers Lane, Mailstop 09E70, Rockville, Maryland 20857.

(Include "Mandatory Grant Disclosures" in subject line.)

Ofc: (301) 443–5204, Fax: (301) 594–0899, Email: *Robert.Tarwater@ihs.gov.*
AND

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW., Cohen Building Room 5527, Washington, DC 20201.

URL: *http://oig.hhs.gov/fraud/reportfraud/index.asp.*

(Include "Mandatory Grant Disclosures" in subject line.)

Fax: (202) 205–0604 (Include "Mandatory Grant Disclosures" in subject line) or Email: *MandatoryGranteeDisclosures@oig.hhs.gov.*

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Michelle Eagle Hawk, Deputy Director, Office of Direct Service and Contracting Tribes, Indian Health Service, 5600 Fishers Lane, Mail Stop 08E17, Rockville, MD 20857, Telephone: (301) 443–1104, Email: *michelle.eaglehawk@ihs.gov.*
2. Questions on grants management and fiscal matters may be directed to: Mr. Pallop Chareonvootitam, Grants Management Specialist, Office of Management Services, Division of Grants Management, Indian Health Service, 5600 Fishers Lane, Mail Stop 09E70, Rockville, MD 20857, Telephone: (301) 443–2195, Fax: (301) 594–0899, Email: *pallop.chareonvootitam@ihs.gov.*
3. Questions on systems matters may be directed to: Mr. Paul Gettys, Grant Systems Coordinator, 5600 Fishers Lane, Mail Stop 09E70, Rockville, MD 20857, Phone: (301) 443–2114; or the DGM main line (301) 443–5204, Fax: (301) 594–0899, Email: *Paul.Gettys@ihs.gov.*

VIII. Other Information

The PHS strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Pub. L. 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: March 30, 2016.

Elizabeth A. Fowler,

Deputy Director for Management Operations, Indian Health Service.

[FR Doc. 2016–07950 Filed 4–6–16; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Glia, Neuroimmunology and Neurovasculature.

Date: April 20, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Nicholas Gaiano, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Pathophysiological Correlates of Visual System Disorders and Mechanisms of Intervention.

Date: April 28, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Samuel C. Edwards, Ph.D., IRG CHIEF, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD

20892, (301) 435–1246, *edwardss@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 1, 2016.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–07922 Filed 4–6–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Epidemiology, Prevention and Behavior Research Review Subcommittee.

Date: June 6, 2016.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Alcohol Abuse and Alcoholism, Terrace Level Conference Room 508/509, 5635 Fishers Lane, Rockville, MD 20852.

Contact Person: Katrina L Foster, Ph.D., Scientific Review Administrator, National Institutes on Alcohol Abuse & Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm. 3037, Rockville, MD 20852, 301–443–3037, *katrina@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Neuroscience Review Subcommittee.

Date: June 7, 2016.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Alcohol Abuse and Alcoholism, Terrace Level Conference Room 508, 5635 Fishers Lane, Rockville, MD 20852.

Contact Person: Beata Buzas, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm 2081, Rockville, MD 20852, 301–443–0800 *bbuzas@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Clinical, Treatment and Health Services Research Review Subcommittee.

Date: June 13, 2016.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Alcohol Abuse & Alcoholism, Terrace Level Conference Room 508/509, 5635 Fishers Lane, Rockville, MD 20852.

Contact Person: Katrina L Foster, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse & Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm. 2019, Rockville, MD 20852, 301–443–4032, *katrina@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Biomedical Research Review Subcommittee.

Date: June 14, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Alcohol Abuse and Alcoholism, Terrace Level Conference Room 508, 5635 Fishers Lane, Rockville, MD 20852.

Contact Person: Philippe Marmillot, Ph.D., Scientific Review Officer, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Rm 2019, Bethesda, MD 20892, 301–443–2861, *marmillotp@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: April 1, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–07932 Filed 4–6–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee I—Transition to Independence.

Date: June 14–15, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Delia Tang, MD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W602, Rockville, MD 20850, 240–276–7684, *tangd@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 1, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–07923 Filed 4–6–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Ion Channels and Synapses.

Date: April 14, 2016.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mary Custer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 1, 2016.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–07921 Filed 4–6–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA's) Center for Substance Abuse Treatment (CSAT) National Advisory Council will meet on May 3, 2016, 2:30 p.m.–3:30 p.m. (EDT) in a closed teleconference meeting.

The meeting will include discussions and evaluations of grant applications reviewed by SAMHSA's Initial Review Groups, and involve an examination of confidential financial and business information as well as personal information concerning the applicants. Therefore, the meeting will be closed to the public as determined by the Acting SAMHSA Administrator, in accordance with Title 5 U.S.C § 552b(c)(4), (6) and (9)(B) and Title 5 U.S.C. App. 2, Section 10(d).

Meeting information and a roster of Council members may be obtained by accessing the SAMHSA Committee Web site at *http://beta.samhsa.gov/about-us/advisory-councils/csat-national-advisory-council* or by contacting the CSAT National Advisory Council Designated Federal Officer; Tracy Goss (see contact information below).

Council Name: SAMHSA's Center for Substance Abuse Treatment National Advisory Council.

Date/Time/Type: May 3, 2016, 2:30 p.m.–3:30 p.m. EDT, Closed.

Place: SAMHSA, 5600 Fishers Lane, Rockville, Maryland 20857.

Contact: Tracy Goss, Designated Federal Officer, CSAT National Advisory Council, 5600 Fishers Lane, Rockville, Maryland 20857 (mail), Telephone: (240) 276–0759, Fax: (240) 276–2252, Email: *tracy.goss@samhsa.hhs.gov.*

Summer King,

Statistician, SAMHSA.

[FR Doc. 2016–07969 Filed 4–6–16; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4266–DR; Docket ID FEMA–2016–0001]

Texas; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas (FEMA–4266–DR), dated March 19, 2016, and related determinations.

DATES: *Effective Date:* March 25, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 19, 2016.

Erath, Gregg, Harrison, Hood, Marion, and Parker Counties for Individual Assistance and assistance for emergency protective measures (Categories A and B), including direct federal assistance under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2016–08054 Filed 4–6–16; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2016–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: March 20, 2016.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Alabama:					
Baldwin (FEMA Docket No.: B–1554).	City of Foley (15–04–7975P).	The Honorable John E. Koniar, Mayor, City of Foley, P.O. Box 1750, Foley, AL 36535.	City Hall, 407 East Laurel Avenue, Foley, AL 36535.	Feb. 18, 2016	010007
Tuscaloosa (FEMA Docket No.: B–1554).	City of Tuscaloosa (15–04–6987P).	The Honorable Walter Maddox, Mayor, City of Tuscaloosa, P.O. Box 2089, Tuscaloosa, AL 35401.	Engineering Department, 2201 University Boulevard, Tuscaloosa, AL 35401.	Feb. 17, 2016	010203
Arkansas:					
Benton. (FEMA Docket No.: B–1555).	Unincorporated areas of Benton County (15–06–2411P).	The Honorable Robert D. Clinard, Benton County Judge, 215 East Central Avenue, Bentonville, AR 72712.	Benton County Planning Department, 905 Northwest 8th Street, Bentonville, AR 72712.	Feb. 18, 2016	050419
Pulaski (FEMA Docket No.: B–1554).	City of North Little Rock (15–06–3972P).	The Honorable Joe Smith, Mayor, City of North Little Rock, P.O. Box 5757, North Little Rock, AR 72119.	Engineering Department, 500 West 13th Street, North Little Rock, AR 72114.	Feb. 11, 2016	050182
Colorado:					
Denver (FEMA Docket No.: B–1554).	City and County of Denver (15–08–1063P).	The Honorable Michael B. Hancock, Mayor, City and County of Denver, 1437 Bannock Street, Suite 350, Denver, CO 80202.	Department of Public Works, 201 West Colfax Avenue, Denver, CO 80202.	Feb. 29, 2016	080046
Eagle (FEMA Docket No.: B–1554).	Unincorporated areas of Eagle County (15–08–0620P).	The Honorable Kathy Chandler-Henry, Chair, Eagle County Board of Commissioners, P.O. Box 850, Eagle, CO 81631.	Eagle County, Engineering Department, 500 Broadway Street, Eagle, CO 81631.	Feb. 12, 2016	080051
Florida:					
Brevard (FEMA Docket No.: B–1554).	Unincorporated areas of Brevard County (15–04–2643P).	The Honorable Robin Fisher, Chairman, Brevard County Board of Commissioners, District 1, 400 South Street, Suite 1–A, Titusville, FL 32780.	Brevard County Public Works Department, 2725 Judge Fran Jamieson Way, Melbourne, FL 32940.	Feb. 10, 2016	125092
Duval (FEMA Docket No.: B–1554).	City of Jacksonville (15–04–5977P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	Development Services Division, 214 North Hogan Street, Room 2100, Jacksonville, FL 32202.	Feb. 23, 2016	120077
Hillsborough (FEMA Docket No.: B–1554).	Unincorporated areas of Hillsborough County (15–04–4418P).	The Honorable Sandra L. Murman, Chair, Hillsborough County Board of Commissioners, District 1, 601 East Kennedy Boulevard, Tampa, FL 33602.	Hillsborough County Center, 601 East Kennedy Boulevard, Tampa, FL 33602.	Feb. 17, 2016	120112

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Lee (FEMA Docket No.: B–1554).	City of Bonita Springs (14–04–8856P).	The Honorable Ben L. Nelson, Jr., Mayor, City of Bonita Springs, 9101 Bonita Beach Road, Bonita Springs, FL 34135.	Community Development Department, 9220 Bonita Beach Road, Bonita Springs, FL 34135.	Feb. 23, 2016	120680
Lee (FEMA Docket No.: B–1554).	Unincorporated areas of Lee County (15–04–5434P).	The Honorable Brian Hamman, Chairman, Lee County Board of Commissioners, District 4, P.O. Box 398, Fort Myers, FL 33902.	Lee County Community Development Department, 1500 Monroe Street, Fort Meyers, FL 33901.	Feb. 12, 2016	125124
Monroe (FEMA Docket No.: B–1554).	Unincorporated areas of Monroe County (15–04–8109P).	The Honorable Danny Kolhage, Mayor, Monroe County Board of Commissioners, 530 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Feb. 10, 2016	125129
Monroe (FEMA Docket No.: B–1554).	Unincorporated areas of Monroe County (15–04–9028P).	The Honorable Danny Kolhage, Mayor, Monroe County Board of Commissioners, 530 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Feb. 22, 2016	125129
Orange (FEMA Docket No.: B–1554).	City of Orlando (15–04–1761P).	The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32802.	Permitting Services Division, 400 South Orange Avenue, Orlando, FL 32839.	Feb. 11, 2016	120186
Sarasota (FEMA Docket No.: B–1554).	City of Sarasota (15–04–6953P).	The Honorable Willie Charles Shaw, Mayor, City of Sarasota, 1565 1st Street, Room 101, Sarasota, FL 34236.	Building Department, 1565 1st Street, Sarasota, FL 34236.	Feb. 26, 2016	125150
Georgia:					
Columbia (FEMA Docket No.: B–1554).	Unincorporated areas of Columbia County (15–04–3830P).	The Honorable Ron C. Cross, Chairman, Columbia County Board of Commissioners, P.O. Box 498, Evans, GA 30809.	Columbia County Engineering Services Department, 630 Ronald Reagan Drive, Building A, East Wing, Evans, GA 30809.	Feb. 18, 2016	130059
Columbia (FEMA Docket No.: B–1554).	Unincorporated areas of Columbia County (15–04–8626P).	The Honorable Ron C. Cross, Chairman, Columbia County Board of Commissioners, P.O. Box 498, Evans, GA 30809.	Columbia County Engineering Services Department, 630 Ronald Reagan Drive, Building A, East Wing, Evans, GA 30809.	Feb. 18, 2016	130059
Kentucky: Jefferson (FEMA Docket No.: B–1554).	Louisville–Jefferson County Metro Government (15–04–6547P).	The Honorable Greg Fischer, Mayor, City of Louisville, 527 West Jefferson Street, 4th Floor, Louisville, KY 40202.	Metropolitan Sewer District, 700 West Liberty Street, Louisville, KY 40202.	Feb. 11, 2016	210120
Massachusetts:					
Bristol (FEMA Docket No.: B–1554).	Town of North Attleborough (15–01–1818P).	The Honorable Paul Belham, Sr., Chairman, Town of North Attleborough Selectmen, 43 South Washington Street, North Attleborough, MA 02760.	Public Works Department, 49 Whiting Street, North Attleborough, MA 02760.	Feb. 17, 2016	250059
Essex (FEMA Docket No.: B–1554).	City of Newburyport (15–01–1564P).	The Honorable Donna D. Holaday, Mayor, City of Newburyport, 60 Pleasant Street, Newburyport, MA 01950.	City Hall, 60 Pleasant Street, Newburyport, MA 01950.	Feb. 16, 2016	250097
Montana: Carbon (FEMA Docket No.: B–1554).	Unincorporated areas of Carbon County (15–08–0428P).	The Honorable John Prinkki, Presiding Officer, Carbon County Board of Commissioners, P.O. Box 887, Red Lodge, MT 59068.	Carbon County, Floodplain Department, P.O. Box 466, Red Lodge, MT 59068.	Feb. 12, 2016	300139
Pennsylvania:					
Berks (FEMA Docket No.: B–1554).	Borough of Bally (15–03–0023P).	The Honorable Glenn Mutter, President, Borough of Bally Council, 425 Chestnut Street, Bally, PA 19503.	Borough Hall, 425 Chestnut Street, Bally, PA 19503.	Feb. 11, 2016	420125
Berks (FEMA Docket No.: B–1554).	Township of Washington (15–03–0023P).	The Honorable James P. Roma, Chairman, Township of Washington Board of Supervisors, 120 Barto Road, Barto, PA 19504.	Township Hall, 120 Barto Road, Barto, PA 19504.	Feb. 11, 2016	421383
Bradford (FEMA Docket No.: B–1555).	Borough of Towanda (14–03–3276P).	The Honorable Paul Sweitzer, President, Borough of Towanda Council, 724 Main Street, Towanda, PA 18848.	Municipal Building, 724 Main Street, Towanda, PA 18848.	Feb. 25, 2016	420178
Chester (FEMA Docket No.: B–1554).	Township of Cain, (15–03–2049P).	The Honorable John D. Contento, President, Township of Cain, Board of Commissioners, 253 Municipal Drive, Thorndale, PA 19372.	Township Municipal Building, 253 Municipal Drive, Thorndale, PA 19372.	Feb. 16, 2016	422247

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
South Carolina: Charleston (FEMA Docket No.: B–1554).	Unincorporated areas of Charleston County (15–04–8691P).	The Honorable J. Elliot Summey, Chairman, Charleston County Board of Commissioners, 4045 Bridgeview Drive, Suite B254, North Charleston, SC 29405.	Charleston County, Building Inspection Services Division, 4045 Bridgeview Drive, Suite A311, North Charleston, SC 29405.	Feb. 22, 2016	455413
Texas:					
Houston (FEMA Docket No.: B–1554).	City of Houston (14–06–2581P).	The Honorable Annise D. Parker, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	Floodplain Management Office, 1002 Washington Avenue, 3rd Floor, Houston, TX 77002.	Feb. 12, 2016	480296
Midland (FEMA Docket No.: B–1555).	City of Midland (15–06–2420P).	The Honorable Jerry Morales, Mayor, City of Midland, 300 North Loraine Street, Midland, TX 79701.	City Hall, 300 North Loraine Street, Midland, TX 79701.	Feb 3, 2016	480477
Montgomery (FEMA Docket No.: B–1554).	Unincorporated areas of Montgomery County (14–06–2160P).	The Honorable Craig Doyal, Montgomery County Judge, 501 North Thompson Street, Suite 401, Conroe, TX 77301.	Montgomery County Permitting Department, 501 North Thompson Street, Suite 100, Conroe, TX 77301.	Feb. 26, 2016	480483
Parker (FEMA Docket No.: B–1555).	City of Aledo (15–06–1513P).	The Honorable Kit Marshall, Mayor, City of Aledo, P.O. Box 1, Aledo, TX 76008.	City Hall, 200 Old Annetta Road, Aledo, TX 76008.	Feb 25, 2016	481659
Parker (FEMA Docket No.: B–1555).	Unincorporated areas of Parker County (15–06–1513P).	The Honorable Mark Riley, Parker County Judge, 1 Courthouse Square, Weatherford, TX 76086.	Parker County, Emergency Management Department, 215 Trinity Street, Weatherford, TX 76086.	Feb 25, 2016	480520
Virginia: Independent City (FEMA Docket No.: B–1555).	City of Virginia Beach (15–03–0388P).	The Honorable William D. Sessoms, Jr., Mayor, City of Virginia Beach, 2401 Courthouse Drive, Virginia Beach, VA 23456.	Department of Public Works, 2405 Courthouse Drive, Virginia Beach, VA 23456.	Feb 29, 2016	515531

[FR Doc. 2016–08056 Filed 4–6–16; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4266–DR; Docket ID FEMA–2016–0001]

Texas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–4266–DR), dated March 19, 2016, and related determinations.

DATES: *Effective Date:* March 19, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 19, 2016, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Texas resulting from severe storms, tornadoes, and flooding beginning on March 7, 2016, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments (PDAs). Direct Federal assistance is authorized.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Kevin L. Hannes, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Texas have been designated as adversely affected by this major disaster:

Jasper, Newton, and Orange Counties for Individual Assistance.

Jasper, Newton, and Orange Counties for debris removal and emergency protective measures (Categories A and B), including direct federal assistance, under the Public Assistance program.

All areas within the State of Texas are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant;

97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2016–08052 Filed 4–6–16; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5940–N–01]

Notice of Extension of Time for Completion of Manufacturer Corrections Approved Under a Waiver of a Plan for Notification

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of extension of time.

SUMMARY: This notice advises the public that HUD received a request from Clayton Homes (Clayton) for an extension of time to fully implement its plan to correct affected homes without implementation of a Plan of Notification. Certain manufactured homes built and sold by Clayton contained certain Nortek furnace models with the potential for incorrect wiring of circuit breakers used for over-current protection of the furnace. After reviewing Clayton's request, HUD determined that Clayton has shown good cause and granted its request for an extension. The requested extension is granted until May 12, 2016.

FOR FURTHER INFORMATION CONTACT: Pamela Beck Danner, Administrator, Office of Manufactured Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 9166, Washington, DC 20410, telephone 202–708–6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at 800–877–8339.

DATES: *Effective Date:* March 21, 2016.

SUPPLEMENTARY INFORMATION: The National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401–5426) (the Act) authorizes HUD to establish the Federal Manufactured Home Construction and Safety Standards (Construction and Safety Standards), codified in 24 CFR part 3280. Section 615 of the Act (42 U.S.C. 5414) requires that manufacturers of manufactured homes notify purchasers if the manufacturer determines, in good faith, that a defect exists or is likely to exist in more than one home manufactured by the manufacturer and the defect relates to the Construction and Safety Standards or constitutes an imminent safety hazard to the purchaser of the manufactured home. The notification shall also inform purchasers whether the defect is one that the manufacturer will have corrected at no cost or is one that must be corrected at the expense of the purchaser/owner. The manufacturer is responsible to notify purchasers of the defect within a reasonable time after discovering the defect.

HUD's procedural and enforcement provisions at 24 CFR part 3282, subpart I (Subpart I) implement these notification and correction requirements. If a manufacturer determines that it is responsible for providing notification under § 3282.405 and correction under § 3282.406, the manufacturer must prepare a plan for notifying purchasers of the homes containing the defect pursuant to §§ 3282.408 and 3282.409. Notification of purchasers must be accomplished by certified mail or other more expeditious means that provides a receipt. Notification must be provided to each retailer or distributor to whom any manufactured home in the class of homes containing the defect was delivered, to the first purchaser of each manufactured home in the class of manufactured homes containing the defect, and to other persons who are a registered owners of a manufactured home in the class of homes containing the defect. The manufacturer must complete the implementation of the plan for notification and correction on or before the deadline approved by the State Administrative Agency or HUD. Pursuant to § 3282.407(c), manufacturers may request a waiver of the notification requirements if all affected homes have been identified and the manufacturer agrees to correct all affected homes within a specific time from the approval date.

Under § 3282.410(c), the manufacturer may request an extension of a previously established deadline if it shows good cause for the extension and the Secretary of HUD decides that the extension is justified and not contrary to the public interest. If the request for extension is approved, § 3282.410(c) requires that HUD publish notice of the extension in the **Federal Register**.

On December 31, 2015, Clayton[1] notified HUD and requested a waiver of notification for certain manufactured homes that contained furnaces with circuit breaker wiring labels that if followed, would result in incorrect electrical circuit completion. Specifically, the homes were installed with certain Nortek furnaces, which were subsequently voluntarily identified by Nortek as being affected by its labeling problem. HUD approved Clayton's waiver request on January 13, 2016. On March 21, 2016, Clayton submitted a request for an extension regarding the completion of corrections required, originally to be completed within 60 days of HUD's waiver approval (by March 13, 2016). Pursuant to its waiver request, Clayton stated that it was working with the furnace manufacturer (Nortek) to correct affected homes in the hands of consumers.

Clayton, by letter dated March 21, 2016, requested an extension of 60 days to complete the correction process. This notice advises that HUD on March 21, 2016, concluded that Clayton has shown good cause and that the extension is justified and not contrary to the public interest, and granted the requested extension until May 12, 2016. This extension permits Clayton to continue its good faith efforts to correct affected homes at no cost to affected homeowners.

Dated: April 4, 2016.

Pamela Beck Danner,

Administrator, Office of Manufactured Housing Programs.

[FR Doc. 2016–08050 Filed 4–6–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5941–N–01]

Notice of Extension of Time for Completion of Manufacturer Corrections Approved Under a Waiver of a Plan for Notification

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of extension of time.

SUMMARY: This notice advises the public that HUD received a request from Cavco Industries (Cavco) for an extension of time to fully implement its plan to

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[1] Information about Clayton Industries can be found at *http://www.ClaytonHomes.com.*

correct affected homes without implementation of a Plan of Notification. Certain manufactured homes built and sold by Cavco contained certain Nortek furnace models with the potential for incorrect wiring of circuit breakers used for over-current protection of the furnace. After reviewing Cavco's request, HUD determined that Cavco has shown good cause and granted its request for an extension. The requested extension is granted until July 4, 2016.

FOR FURTHER INFORMATION CONTACT: Pamela Beck Danner, Administrator, Office of Manufactured Housing Programs, Office of Housing Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9166, Washington, DC 20410, telephone 202–708–6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at 800–877–8339.

DATES: *Effective Date:* March 7, 2016.

SUPPLEMENTARY INFORMATION: The National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401–5426) (the Act) authorizes HUD to establish the Federal Manufactured Home Construction and Safety Standards (Construction and Safety Standards), codified in 24 CFR part 3280. Section 615 of the Act (42 U.S.C. 5414) requires that manufacturers of manufactured homes notify purchasers if the manufacturer determines, in good faith, that a defect exists or is likely to exist in more than one home manufactured by the manufacturer and the defect relates to the Construction and Safety Standards or constitutes an imminent safety hazard to the purchaser of the manufactured home. The notification shall also inform purchasers whether the defect is one that the manufacturer will have corrected at no cost or is one that must be corrected at the expense of the purchaser/owner. The manufacturer is responsible to notify purchasers of the defect within a reasonable time after discovering the defect.

HUD's procedural and enforcement provisions at 24 CFR part 3282, subpart I (Subpart I) implement these notification and correction requirements. If a manufacturer determines that it is responsible for providing notification under § 3282.405 and correction under § 3282.406, the manufacturer must prepare a plan for notifying purchasers of the homes containing the defect pursuant to §§ 3282.408 and 3282.409. Notification of purchasers must be accomplished by certified mail or other more expeditious means that provides a receipt. Notification must be provided to each retailer or distributor to whom any manufactured home in the class of homes containing the defect was delivered, to the first purchaser of each manufactured home in the class of manufactured homes containing the defect, and to other persons who are a registered owners of a manufactured home in the class of homes containing the defect. The manufacturer must complete the implementation of the plan for notification and correction on or before the deadline approved by the State Administrative Agency or HUD. Pursuant to § 3282.407(c), manufacturers may request a waiver of the notification requirements if all affected homes have been identified and the manufacturer agrees to correct all affected homes within a specific time from the approval date.

Under § 3282.410(c), the manufacturer may request an extension of a previously established deadline if it shows good cause for the extension and the Secretary of HUD decides that the extension is justified and not contrary to the public interest. If the request for extension is approved, § 3282.410(c) requires that HUD publish notice of the extension in the **Federal Register**.

On December 31, 2015, Cavco[1] notified HUD and requested a waiver of notification for certain manufactured homes that contained furnaces with circuit breaker wiring labels that if followed, would result in incorrect electrical circuit completion. Specifically, the homes were installed with certain Nortek furnaces, which were subsequently voluntarily identified by Nortek as being affected by its labeling problem. HUD approved Cavco's request on January 6, 2016. On March 7, 2016, Cavco submitted a request for an extension regarding the completion of corrections required to be completed within 60 days under the HUD approved waiver. Pursuant to its waiver request, Cavco stated that it was working with the furnace manufacturer (Nortek) to correct affected homes in the hands of consumers.

Cavco, by letter dated March 7, 2016, requested an extension of 120 days to complete the correction process. This notice advises that HUD on March 7, 2016, concluded that Cavco has shown good cause and that the extension is justified and not contrary to the public interest, and granted the requested extension until July 4, 2016. This extension permits Cavco to continue its good faith efforts to correct affected homes at no cost to affected homeowners.

Dated: April 4, 2016.

Pamela Beck Danner,

Administrator, Office of Manufactured Housing Programs.

[FR Doc. 2016–08048 Filed 4–6–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAKA02000.L14400000.FR0000.241A; A–042498; A–058393]

Notice of Realty Action: Non-Competitive Direct Sale, Renunciation, and Conveyance of the Reversionary Interests in Recreation and Public Purpose Act Patents in Glennallen, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM), Glennallen Field Office is considering a request by SEND North (SEND) to purchase the Federal Government's reversionary interest at current Fair Market Value of $210,000 for up to 210 acres of partially developed lands established under the Recreation and Public Purposes Act (R&PP) in Glennallen, Alaska. The BLM is also considering the renunciation of reversionary interest for an associated 2.5-acre patented parcel of land, authorized under the R&PP Act in Glennallen, Alaska, which was used as a medical sewage lagoon by SEND.

DATES: Interested parties may submit comments regarding the proposed sale and renunciation of the lands until May 9, 2016.

ADDRESSES: Send written comments to the Field Manager, Glennallen Field Office, P.O. Box 147, Glennallen, AK 99588.

FOR FURTHER INFORMATION CONTACT: Joseph Hart, Realty Specialist, Bureau of Land Management, Glennallen Field Office at 907–822–3217. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: In 1961, a 210-acre parcel of Federal land was patented (patent number 1221491) to Central Alaska Missions Inc. (CAM) under the authority of the R&PP Act of June 14, 1926, as amended, 43 U.S.C. 869, *et seq.* The non-profit CAM came to Glennallen, Alaska in 1957 to assist the Glennallen community and the surrounding area with not-for-profit education, medical, and religious services. In 1963, an additional 2.5 acres was patented (patent number 1232741) under the same authority for the creation of a sewage lagoon to support the medical facility constructed on the previous patented land. The patents were subsequently transferred under provisions of the R&PP Act to the current non-profit SEND North (SEND).

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[1] Information about Cavco Industries can be found at *http://www.cavco.com.*

The purpose for which the lands can be used is restricted by a reversionary clause in the patents, which returns title to the United States if the tracts are used for other purposes not provided for in the patents. The purpose of the direct sale is to dispose of the reversionary interests in the patented lands which represent certain restrictions and conditions that prevent SEND from using the land for other purposes. The purpose of the renunciation is to release the United States from liability for the sewage treatment lagoon. The parcels proposed for direct sale and renunciation of the reversionary interests are located in the business center of Glennallen, Alaska and consist of two surveyed parcels containing approximately 210 acres and 2.5 acres and are described as:

Copper River Meridian, Alaska

T. 4 N., R. 2 W.,
  Sec. 23, NE¼, SE¼SE¼SE¼SW¼,
    NW¼NE¼SE¼ and NW¼SE¼.
  The areas described aggregate 212.50 acres.

The purpose of the direct sale and renunciation of the reversionary interests is so the lands, patented to SEND, can be sold, transferred, and/or used for other purposes. The R&PP Act reversionary clause in the patents requires the patents be sold only to those qualified under the R&PP Act and is used only for the purposes allowed under the R&PP Act, or the patented land will revert back to the United States. These parcels of land are located in the business center of Glennallen, which is in a rural part of Alaska. SEND has experienced difficulty in attracting potential buyers because of the reversionary clause in the patents. SEND cannot find a buyer who is interested in the land and who qualifies under the R&PP Act. A direct sale and renunciation of the reversionary interests will allow SEND to sell or transfer the properties to any citizen or organization in the United States and to use the lands for any purpose, without the threat of a reversion of the title for breach of patent conditions. This sale and renunciation would reduce the Federal Government's and the BLM's liability in relation to both parcels and allow for the merger of property interests to occur.

The non-competitive, direct sale and release are consistent with the East Alaska Resource Management Plan approved in September 2007. Authority for the sale and release of the reversionary interests is in conformance with Section 202 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976, as amended, and Section 203, whereas the Secretary determines that the sale of the parcel meets the following disposal criteria: Such tract is difficult and uneconomic to manage because of its location or other characteristics, such as the subject's history of use, current level of development, and is neither required nor suitable for management by another Federal department or agency. The lands are being offered for sale and renunciation using direct sale procedures pursuant to 43 CFR 2711.3–3. The renunciation of the reversionary interest in the 2.5 acres would take place pursuant to 43 CFR 2743.4, as they meet the criteria identified in National BLM Handbook H–2740–1, Chapter X: Solid Waste or Other Purposes That May Include the Disposal, Placement, or Release of a Hazardous Substance. The reversionary interest in this land will be offered by direct sale to SEND at the Fair Market Value (FMV) of $210,000 according to an appraisal report for the 210-acre parcel located in the NE ¼ and SE ¼ of section 23. The 2.5-acre parcel located in the SW ¼ of section 23 containing a sewage lagoon will be renounced without payment by SEND. The appraisal report is available for public review at the BLM Glennallen Field Office at the address above.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease under the R&PP Act, leasing under the mineral leasing laws, and disposals under the mineral material disposal laws.

Upon completion of this action, the identified parcels would no longer be subject to having title revert to the Federal Government under the R&PP Act as described in patents 1221491 and 1232741. All other terms and conditions of these patents will apply. The direct sale and renunciation of the reversionary interest of these lands will be made subject to the provisions of FLPMA, the applicable regulations of the Secretary of the Interior, all valid existing rights, and the following reservations:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945); and
2. All minerals, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.
3. Valid existing rights.

The purchaser, by, respectively, purchasing the reversionary interests, and accepting the renunciation of the interests of the United States agrees to indemnify, defend, and hold the United States, its officers, agents or employees harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind arising from the past, present or future acts or omissions of the purchaser, its employees, agents, contractors, or lessees, or third-party arising out of or in connection with the purchaser's acceptance of the aforementioned release or purchaser's use and/or occupancy of the land involved resulting in: (1) Violations of Federal, State, and local laws and regulations that are now, or in the future become, applicable to real property; (2) judgments, claims or demands of any kind assessed against the United States; (3) Cost, expenses, or damages of any kind incurred by the United States; (4) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws, off, on, into or under land, property, and other interests of the United States; (5) Other activities by which solids or hazardous substances or wastes, as defined by Federal and State environmental laws are generated, released, stored, used, or otherwise disposed of on the land involved, and any cleanup, response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by Federal and State law. Patentee shall stipulate that it will be solely responsible for compliance with all applicable Federal, State, and local environmental and regulatory provisions, throughout the life of the facilities, including any closure and/or post-closure requirements that may be imposed with respect to any physical plant and/or facilities upon the land involved under any Federal, State, or local environmental laws or regulatory provisions. This covenant shall be construed as running with the land and may be enforced by the United States in a court of competent jurisdiction.

No warranty of any kind, express or implied, is given by the United States in connection with the sale or release of the reversionary interest. The documentation for land use conformance, National Environmental Policy Act procedures, a map, and the approved appraisal report covering the proposed sale, are available for review at the BLM Glennallen Field Office at the address listed above.

Classification Comments: Interested persons may submit comments on the non-competitive, direct sale, renunciation, and conveyance of the reversionary interests in these public lands. Comments on the classification is restricted to whether the lands are physically suited for the sale, renunciation, and conveyance, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Interested persons may submit comments regarding the non-competitive, direct sale and renunciation of the reversionary interests and conveyance of reversionary interests, and whether the BLM followed proper administrative procedures in reaching the decision for the direct sale or renunciation of these reversionary interests.

Only written comments submitted by postal service or overnight mail to the Field Manager, BLM Glennallen Field Office, will be considered properly filed. Electronic mail, facsimile, or telephone comments will not be considered properly filed.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Any adverse comments will be reviewed by the BLM Alaska State Director, who may sustain, vacate, or modify these realty actions. In the absence of any adverse comments, the decision will become effective May 9, 2016. The reversionary interests will not be offered for sale or renounced until after the decision becomes effective.

(Authority: 43 CFR 2741.5)

Callie Webber,

Acting Anchorage District Manager.

[FR Doc. 2016–08026 Filed 4–6–16; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS01000.L58530000.PN0000.241A; N–90372; 12–08807; MO#4500090606; TAS:14X5232]

Notice of Realty Action: Classification for Lease and/or Subsequent Conveyance for Recreation and Public Purposes of Public Lands (N–90372) for an Elementary School in the Southwest Portion of the Las Vegas Valley, Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for classification under provisions of the Taylor Grazing Act, and for lease and/or subsequent conveyance under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended, approximately 12.5 acres of public land in the Las Vegas Valley, Clark County, Nevada. The Clark County School District proposes to use the land for an elementary school in the southwest portion of the Las Vegas Valley.

DATES: Interested parties may submit written comments regarding the proposed classification of the land for lease and/or subsequent conveyance of the land, and the environmental assessment (EA), until May 23, 2016.

ADDRESSES: Send written comments to the BLM Las Vegas Field Manager, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130, by FAX at 702–515–5110, or email: *emoody@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Lisa Moody, 702–515–5084, or *emoody@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The parcel of public land is located along on the northwest corner of West Torino Avenue and South Juliano Road, and is legally described as:

Mount Diablo Meridian, Nevada

T. 22 S., R. 60 E.,
  Sec. 17, SE¼NE¼SE¼SW¼ and NW¼SW¼SE¼.

The area described contains 12.5 acres, more or less, in Clark County.

In accordance with the R&PP Act, the Clark County School District has filed an application to develop the above described land for an elementary school in the southwest portion of the Las Vegas Valley. Related facilities include one and/or two story building with classrooms, sports field(s), playgrounds, parking lot, and related ancillary structures. Additional detailed information pertaining to this application, plan of development, and site plan is in case file N–90372, which is located in the BLM Las Vegas Field Office at the above address. Environmental documents associated with this proposed action are available for review at the BLM Las Vegas Field Office, and on the Web at: *www.blm.gov/nv/st/en/fo/lvfo/blm_information/nepa.html.*

The Clark County School District is a political subdivision of the State of Nevada and is a qualified applicant under the R&PP Act.

The lease and/or subsequent conveyance of the public land shall be subject to valid existing rights. Subject to limitations prescribed by law and regulations, prior to patent issuance, a holder of any right-of-way within the lease area may be given the opportunity to amend the right-of-way for conversion to a new term, including perpetuity, if applicable.

The land is not required for any Federal purpose. The lease and/or subsequent conveyance is consistent with the BLM Las Vegas Resource Management Plan dated October 5, 1998, and would be in the public interest. The Clark County School District has not applied for more than the 640-acre limitation for public purpose uses in a year and has submitted a statement in compliance with the regulations at 43 CFR 2741.4(b).

The lease and/or subsequent conveyance, if and when issued, will be subject to valid existing rights and the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior, and will contain the following terms, conditions, and reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Reservation in Patents Right-of-Way for Ditches or Canals Act of August 30, 1890 (43 U.S.C. 945);

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe;

3. Right-of-way N–59041 for flood control purposes granted to Clark County, its successors or assigns, pursuant to the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1761);

4. Right-of-way N–74516 for flood control purposes granted to Clark County, its successors or assigns, pursuant to the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1761);

5. Right-of-way N–74977 for roadway purposes granted to Clark County, its successors or assigns, pursuant to the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1761);

6. Right-of-way N–78335 for roadway purposes granted to Clark County, its successors or assigns, pursuant to the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1761);

7. Right-of-way N–83273 for sanitary sewer purposes granted to the Clark County Water Reclamation District, its successors or assigns, pursuant to the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1761);

8. Right-of-way N–84230 for a gas pipeline granted to Southwest Gas Corporation, its successors or assigns, pursuant to the Federal Land Policy Management Act of October 21, 1973 (43 U.S.C. 1761);

9. An appropriate indemnification clause protecting the United States from claims arising out of the lessee's/patentee's use, occupancy, or occupations on the leased/patented lands.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease and/or subsequent conveyance under the R&PP Act, leasing under the mineral leasing laws, and disposals under the mineral material disposal laws.

Interested parties may submit written comments on the suitability of the land for an elementary school in the Las Vegas Valley. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs. Interested parties may also submit written comments regarding the specific use proposed in the application and plan of development, and whether the BLM followed proper administrative procedures in reaching the decision to lease and/or convey under the R&PP Act.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Any adverse comments will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the decision will become effective on June 6, 2016.

The lands will not be available for lease and/or subsequent conveyance until after the decision becomes effective.

Authority: 43 CFR 2741.5(h).

Frederick Marcell,

Acting Assistant Field Manager, Las Vegas Field Office.

[FR Doc. 2016–08029 Filed 4–6–16; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTC 00900.L16100000.DP0000 MO4500091849]

Notice of Public Meeting, Dakotas Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Dakotas Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Dakotas Resource Advisory Council meeting will be held on April 28, 2016 in Bowman, North Dakota. The meeting place and time will be announced in a news release.

FOR FURTHER INFORMATION CONTACT: Mark Jacobsen, Public Affairs Specialist, BLM Eastern Montana/Dakotas District, 111 Garryowen Road, Miles City, Montana, 59301; (406) 233–2831; *mjacobse@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–677–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member council advises the Secretary of the Interior through the BLM on a variety of planning and management issues associated with public land management in North and South Dakota. At this meeting the agenda will include: Election of chairs for 2016, an update on Central Montana District grazing decisions, Fort Meade trails and weeds projects, a coal program update, discussion on BLM inholdings related to the Wharf Mine, an Eastern Montana/Dakotas District report, North Dakota and South Dakota Field Office manager reports, individual RAC member reports and other issues the council may raise. All meetings are open to the public and the public may present written comments to the council. Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations should contact the BLM as provided above.

Authority: 43 CFR 1784.4–2

Diane M. Friez,

Eastern Montana/Dakotas District Manager.

[FR Doc. 2016–08061 Filed 4–6–16; 8:45 am]

BILLING CODE 4310–DN–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Overflow and Drain Assemblies for Bathtubs and Components Thereof DN 3134;* the

Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under § 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of WCM Industries, Inc. on April 4, 2016. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain overflow and drain assemblies for bathtubs and components thereof. The complaint names as respondents Federal Process Corporation of Cleveland, OH; J & B Products, Inc. of South Bend, IN; Bridging Partners Corporation of Taiwan; Keeney Manufacturing Co., of Newington, CT; Better Enterprise Co. Ltd., of Taiwan; and Everflow Industrial Supply Corporation of Taiwan. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number ("Docket No. 3134") in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures[4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10 and 210.8(c)).

By order of the Commission.

Issued: April 4, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–07978 Filed 4–6–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–558 and 731–TA–1316 (Preliminary)]

1-Hydroxyethylidene-1, 1-Diphosphonic Acid From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–558 and 731–TA–1316 (Preliminary) pursuant to the Tariff Act of 1930 ("the Act") to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of 1 hydroxyethylidene-1, 1-

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[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

diphosphonic acid ("HEDP") from China, provided for in subheading 2931.90.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce extends the time for initiation, the Commission must reach preliminary determinations in antidumping and countervailing duty investigations in 45 days, or in this case by May 16, 2016. The Commission's views must be transmitted to Commerce within five business days thereafter, or by May 23, 2016.

DATES: *Effective Date:* March 31, 2016.

FOR FURTHER INFORMATION CONTACT: Edward Petronzio (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on March 31, 2016, by Compass Chemical International LLC, Smyrna, Georgia.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on April 21, 2016, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to *William.bishop@usitc.gov* and *Sharon.bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before April 19, 2016. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 26, 2016, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Dated: April 4, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–07987 Filed 4–6–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Stepan Company

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before May 9, 2016. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before May 9, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Registe Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and requests for hearing on applications to import narcotic raw material are not appropriate. 72 FR 3417, (January 25, 2007).

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control ("Deputy Assistant Administrator") pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on February 12, 2016, Stepan Company, Natural Products Dept., 100 W. Hunter Avenue, Maywood, New Jersey 07607 applied to be registered as an importer of coca leaves (9040), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance in bulk for the manufacture of controlled substance for distribution to its customers.

Dated: March 28, 2016.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–07944 Filed 4–6–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Fisher Clinical Services, Inc.

ACTION: Notice of registration.

SUMMARY: Fisher Clinical Services, Inc. applied to be registered as an importer of certain basic classes of controlled substances. The Drug Enforcement Administration (DEA) grants Fisher Clinical Services, Inc. registration as an importer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated December 9, 2015, and published in the **Federal Register** on December 17, 2015, 80 FR 78766, Fisher Clinical Services, Inc., 7554 Schantz Road, Allentown, Pennsylvania 18106 applied to be registered as an importer of certain basic classes of controlled substances. No comments or objections were submitted for this notice.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Fisher Clinical Services, Inc. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Methylphenidate (1724)	II
Levorphanol (9220)	II
Noroxymorphone (9668)	II
Tapentadol (9780)	II

The company plans to import the listed substances for analytical research, testing, and clinical trials. This authorization does not extend to the import of a finished FDA approved or non-approved dosage form for commercial distribution in the United States.

The company plans to import an intermediate form of tapentadol (9780) to bulk manufacture tapentadol for distribution to its customers. Placement of these (this) drug code (s) onto the company's registration does not translate into automatic approval of subsequent permit applications to import controlled substances. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under to 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: March 28, 2016.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–07945 Filed 4–6–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Navinta, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before June 6, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control ("Deputy Assistant Administrator") pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on September 10, 2015, Navinta, LLC, 1499 Lower Ferry Road, Ewing, New Jersey 08618–1414 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Pentobarbital (2270)	II
4-Anilino-N-phenethyl-4-piperidine (ANPP) (8333).	II
Remifentanil (9739)	II
Fentanyl (9801)	II

The company plans initially to manufacture API quantities of the listed controlled substances for validation purposes and FDA approval, then eventually upon FDA approval to produce commercial size batches for distribution to dosage form manufacturers.

Dated: March 28, 2016.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–07948 Filed 4–6–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Mylan Pharmaceuticals, Inc.

ACTION: Notice of registration.

SUMMARY: Mylan Pharmaceuticals, Inc. applied to be registered as an importer of certain basic classes of controlled substances. The Drug Enforcement Administration (DEA) grants Mylan Pharmaceuticals, Inc. registration as an importer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated December 4, 2015, and published in the **Federal Register** on December 10, 2015, 80 FR 76709, Mylan Pharmaceuticals, Inc., 3711 Collins Ferry Road, Morgantown, West Virginia 26505 applied to be registered as an importer of certain basic classes of controlled substances. No comments or objections were submitted for this notice.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Mylan Pharmaceuticals, Inc. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Amphetamine (1100)	II
Lisdexamfetamine (1205)	II
Methylphenidate (1724)	II
Pentobarbital (2270)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Morphine (9300)	II
Oxymorphone (9652)	II
Remifentanil (9739)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically-manufactured FDF. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

Dated: March 28, 2016.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–07946 Filed 4–6–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: VHG Labs DBA LGC Standards Warehouse

ACTION: Notice of registration.

SUMMARY: VHG Labs DBA LGC Standards Warehouse applied to be registered as an importer of certain basic classes of controlled substances. The Drug Enforcement Administration (DEA) grants VHG Labs DBA LGC Standards Warehouse registration as an importer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated November 19, 2015, and published in the **Federal Register** on November 25, 2015, 80 FR 73830, VHG Labs DBA LGC Standards Warehouse 3 Perimeter Road, Manchester, New Hampshire 03103 applied to be registered as an importer of certain basic classes of controlled substances. No comments or objections were submitted for this notice.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of VHG Labs DBA LGC Standards Warehouse to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
3-Fluoro-N-methylcathinone (3-FMC) (1233)	I
Cathinone (1235)	I
Methcathinone (1237)	I
4-Fluoro-N-methylcathinone (4-FMC) (1238)	I
Pentedrone (α-methylaminovalerophenone) (1246)	I
Mephedrone (4-Methyl-N-methylcathinone) (1248)	I
4-Methyl-N-ethylcathinone (4-MEC) (1249)	I
Naphyrone (1258)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Fenethylline (1503)	I
4-Methylaminorex (cis isomer) (1590)	I
Gamma Hydroxybutyric Acid (2010)	I
Methaqualone (2565)	I
Mecloqualone (2572)	I
JWH-250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole) (6250)	I
SR-18 (Also known as RCS-8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole) (7008)	I

Controlled substance	Schedule
5-Flouro-UR-144 and XLR11 [1-(5-Fluoro-pentyl) 1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone (7011)	I
AB-FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide) (7012)	I
JWH-019 (1-Hexyl-3-(1-naphthoyl)indole) (7019)	I
ADB-PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide) (7035)	I
APINACA and AKB48 N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide (7048)	I
JWH-081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)(7081)	I
SR-19 (Also known as RCS–4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole (7104)	I
JWH-018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl) indole) (7118)	I
JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole) (7122)	I
(UR-144) (1-pentyl-1H-indol-3-yl)(2,2,3,3 -tetramethylcyclopropyl) methanone (7144)	I
JWH-073 (1-Butyl-3-(1-naphthoyl)indole) (7173)	I
JWH-200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl) indole) (7200)	I
AM-2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole) (7201)	I
JWH-203 (1-Pentyl-3-(2-chlorophenylacetyl) indole) (7203)	I
PB-22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate) (7222)	I
5F-PB-22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate) (7225)	I
Alpha-ethyltryptamine (7249)	I
Ibogaine (7260)	I
CP-47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol) (7297)	I
CP-47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl-phenol) (7298)	I
Lysergic acid diethylamide (7315)	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7) (7348)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Parahexyl (7374)	I
Mescaline (7381)	I
2-(4-Elthylthio-2,5-dimethoxyphenyl) ethanamine (2C-T-2) (7385)	I
3,4,5-Trimethoxyamphetamine (7390)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392)	I
4-Methyl-2,5-dimethoxyamphetamine (7395)	I
2,5-Dimethoxyamphetamine (7396)	I
JWH-398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole (7398)	I
2,5-Dimethoxy-4-ethylamphetamine (7399)	I
3,4-Methylenedioxyamphetamine (7400)	I
5-Methoxy-3,4-methylenedioxyamphetamine (7401)	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
Peyote (7415)	I
5-Methoxy-N-N-dimethyltryptamine (7431)	I
Alpha-methyltryptamine (7432)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
5-Methoxy-N,N-diisopropyltryptamine (7439)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
1-(1-Phenylcyclohexyl)pyrrolidine (7458)	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470)	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine (7473)	I
N-Ethyl-3-piperidyl benzilate (7482)	I
N-Methyl-3-piperidyl benzilate (7484)	I
N-Benzylpiperazine (7493)	I
4-Methyl-alphapyrrolidinopropiophenone (4-MePPP) (7498)	I
2-(2,5-Dimethoxy-4-methylphenyl) ethanamine (2C-D) (7508)	I
2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine (2C-E) (7509)	I
2-(2,5-Dimethoxyphenyl) ethanamine (2C-H) (7517)	I
2-(4-Iodo-2,5-dimethoxyphenyl) ethanamine (2C-I) (7518)	I
2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine (2C-C) (7519)	I
2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C-N) (7521)	I
2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine (2C-T-4) (7532)	I
MDPV (3,4-Methylenedioxypyrovalerone) (7535)	I
2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25B-NBOMe) (7536)	I
2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C-NBOMe) (7537)	I
Methylone (3,4-Methylenedioxy-N-methylcathinone) (7540)	I
Butylone (7541)	I
Pentylone (7542)	I
alpha-pyrrolidinopentiophenone (*a*-PVP) (7545)	I
alpha-pyrrolidinobutiophenone (*a*-PBP) (7546)	I
AM-694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole) (7694)	I
Acetyldihydrocodeine (9051)	I

Controlled substance	Schedule
Benzylmorphine (9052)	I
Codeine-N-oxide (9053)	I
Cyprenorphine (9054)	I
Desomorphine (9055)	I
Etorphine (except HCl) (9056)	I
Codeine methylbromide (9070)	I
Dihydromorphine (9145)	I
Difenoxin (9168)	I
Heroin (9200)	I
Hydromorphinol (9301)	I
Methyldesorphine (9302)	I
Methyldihydromorphine (9304)	I
Morphine methylbromide (9305)	I
Morphine methylsulfonate (9306)	I
Morphine-N-oxide (9307)	I
Myrophine (9308)	I
Nicocodeine (9309)	I
Nicomorphine (9312)	I
Normorphine (9313)	I
Pholcodine (9314)	I
Thebacon (9315)	I
Acetorphine (9319)	I
Drotebanol (9335)	I
Acetylmethadol (9601)	I
Allylprodine (9602)	I
Alphacetylmethadol except levo-alphacetylmethadol (9603)	I
Alphameprodine (9604)	I
Alphamethadol (9605)	I
Benzethidine (9606)	I
Betacetylmethadol (9607)	I
Betameprodine (9608)	I
Betamethadol (9609)	I
Betaprodine (9611)	I
Clonitazene (9612)	I
Dextromoramide (9613)	I
Diampromide (9615)	I
Dimenoxadol (9617)	I
Dimepheptanol (9618)	I
Dimethylthiambutene (9619)	I
Dioxaphetyl butyrate (9621)	I
Dipipanone (9622)	I
Ethylmethylthiambutene (9623)	I
Etonitazene (9624)	I
Etoxeridine (9625)	I
Furethidine (9626)	I
Ketobemidone (9628)	I
Levomoramide (9629)	I
Levophenacylmorphan (9631)	I
Morpheridine (9632)	I
Noracymethadol (9633)	I
Normethadone (9635)	I
Norpipanone (9636)	I
Phenadoxone (9637)	I
Phenoperidine (9641)	I
Piritramide (9642)	I
Proheptazine (9643)	I
Properidine (9644)	I
Racemoramide (9645)	I
Trimeperidine (9646)	I
Phenomorphan (9647)	I
Propiram (9649)	I
1-Methyl-4-phenyl-4-propionoxypiperdine (9661)	I
1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperdine (9663)	I
Tilidine (9750)	I
Para-Fluorofentanyl (9812)	I
3-Methylfentanyl (9813)	I
Alpha-methylfentanyl (9814)	I
Acetyl-alpha-methylfentanyl (9815)	I
Beta-hydroxyfentanyl (9830)	I
Beta-hydroxy-3-methylfentanyl (9831)	I
Alpha-methylthiofentanyl (9832)	I
3-Methylthiofentanyl (9833)	I
Thiofentanyl (9835)	I
Methamphetamine (1105)	II

Controlled substance	Schedule
Phenmetrazine (1631)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Nabilone (7379)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
Alphaprodine (9010)	II
Anileridine (9020)	II
Etorphine HCl (9059)	II
Dihydrocodeine (9120)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II
Ethylmorphine (9190)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Meperidine intermediate-A (9232)	II
Meperidine intermediate-B (9233)	II
Meperidine intermediate-C (9234)	II
Metazocine (9240)	II
Metopon (9260)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Dihydroetorphine (9334)	II
Levo-alphacetylmethadol (9648)	II
Noroxymorphone (9668)	II
Phenazocine (9715)	II
Piminodine (9730)	II
Racemethorphan (9732)	II
Racemorphan (9733)	II
Alfentanil (9737)	II
Remifentanil (9739)	II
Sufentanil (9740)	II
Carfentanil (9743)	II
Tapentadol (9780)	II
Bezitramide (9800)	II
Moramide-intermediate (9802)	II

The company plans to import analytical reference standards for distribution to its customers for research and analytical purposes. Placement of these drug codes onto the company's registration does not translate into automatic approval of subsequent permit applications to import controlled substances. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: March 29, 2016.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–07947 Filed 4–6–16; 8:45 am]

BILLING CODE 4410–09–P

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting and Hearing Notice No. 4–16]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

Thursday, April 14, 2016

10:00 a.m.—Oral hearings on Objection to Commission's Proposed Decision in Claim No. LIB–III–012.

11:30 a.m.—Issuance of Proposed Decisions in claims against Iraq.

Status: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579. Telephone: (202) 616–6975.

Brian M. Simkin,

Chief Counsel.

[FR Doc. 2016–08019 Filed 4–5–16; 8:45 am]

BILLING CODE 4410–BA–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0302]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: 2016 Supplemental Victimization Survey (SVS)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** at 81 FR 6050, February 4, 2016, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until May 9, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jennifer Truman or Rachel Morgan, Statisticians, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Jennifer.Truman@usdoj.gov;* telephone: 202–514–5083; email: *Rachel.Morgan@usdoj.gov;* telephone: 202–616–1707). Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- —Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
- —Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- —Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- —Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement of the Supplemental Victimization Survey (SVS), with changes, a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* 2016 Supplemental Victimization Survey (SVS)

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* The form number for the questionnaire is SVS–1. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be persons 16 years or older living in households located throughout the United States sampled for the National Crime Victimization Survey (NCVS). The SVS will be conducted as a supplement to the NCVS in all sample households for a six (6) month period. The SVS is primarily an effort to measure the prevalence of stalking victimization among persons, the types of stalking victimization experienced, the characteristics of stalking victims, the nature and consequences of stalking victimization, and patterns of reporting to the police. BJS plans to publish this information in reports and reference it when responding to queries from the U.S. Congress, Executive Office of the President, the U.S. Supreme Court, state officials, international organizations, researchers, students, the media, and others interested in criminal justices statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimate of the total number of respondents is 111,960. About 98.5% (110,280) will have no stalking victimization and will complete the short interview with an average burden of four (4) minutes. Among the 1.5% of respondents (1,679) who experience stalking victimization, the time to ask the detailed questions regarding the aspects of their stalking victimization is estimated to take an average of 12.25 minutes. Respondents will be asked to respond to this survey only once during the six month period. The burden estimates are based on data from the prior administration of the SVS.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 8,055 total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: April 4, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–07961 Filed 4–6–16; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modification of Consent Decree Under the Clean Air Act

On March 30, 2016, the Department of Justice lodged a proposed stipulation to modify a Consent Decree with the United States District Court for the Eastern District of Wisconsin in the lawsuit entitled *United States* v. *Wisconsin Public Service Corporation,* Civil Case No. 13–C–10 (E.D. Wis.).

The original Consent Decree resolved alleged violations of the New Source Review and Title V provisions of the Clean Air Act ("Act"), 42 U.S.C. 7470–92 and 7661a–7661f, at two coal-fired power plants owned and operated by Wisconsin Public Service Corp ("Defendant"): the Weston plant located in Marathon County, Wisconsin, and the Pulliam plant located in Brown County, Wisconsin. The proposed modifications would: (1) Facilitate the Defendant's decision to convert a unit at the Weston plant from burning coal to natural gas, thereby reducing particulate matter ("PM") emissions such that the operation of certain PM controls at that unit is no longer necessary to achieve the PM reductions secured by the Decree; (2) replace a hydroelectric environmental mitigation project that was deemed unworkable with a new land acquisition and restoration project and an expansion of an existing wood stove replacement program; and (3) revise and update certain administrative notice and certification requirements.

The publication of this notice opens a period for public comment on the proposed modifications to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Wisconsin Public Service Corporation,* Civil Case No. 13–C–10

(E.D. Wis.), D.J. Ref. No. 90–5–2–1–1230/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, DC 20044–7611.

During the public comment period, the proposed stipulation to modify the Consent Decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed stipulation upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $6.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–07912 Filed 4–6–16; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0020]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Firearms Transaction Record (ATF Form 4473 (5300.9)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until June 6, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Carolyn King, Firearms Industry Programs Branch at email: *FederalRegisterNoticeATFF4473@atf.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection* (check justification or form 83–I): Revision of a currently approved collection.
2. *The Title of the Form/Collection:* Firearms Transaction Record.
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): ATF Form 4473 (5300.9.)

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other (if applicable): Business or other for-profit.

Abstract: The form allows for Federal firearms licensees to determine the eligibility of persons purchasing firearms. It also alerts buyers to certain restrictions on the receipt and possession of firearms.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 18,275,240 respondents will take 30 minutes to complete the form.
6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 9,137,620 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: April 4, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–07970 Filed 4–6–16; 8:45 am]

BILLING CODE 4410–FY–P

MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION

Sunshine Act Meetings

TIME AND DATE: 9:00 a.m. to 3:30 p.m., Friday, April 22, 2016.

PLACE: Meeting Room C205, University of Arizona Libraries, Special Collections, 1510 E. University Blvd., Tucson, AZ 85721.

STATUS: This meeting of the Board of Trustees will be open to the public.

MATTERS TO BE CONSIDERED: (1) Welcome & Tour of Special Collections for Trustees and Staff; (2) Call to Order & Chair's Remarks; (3) Executive Director's Remarks; (4) Consent Agenda Approval (Program Reports submitted for the Education Programs, U.S. Institute for Environmental Conflict Resolution, and Udall Center for Studies in Public Policy-Native Nations Institute-Udall Archives); (5) Financial and Internal Controls Update; (6) Udall Center for Studies in Public Policy and Native Nations Institute for Leadership, Management, and Policy (NNI) Research Staff Presentations; and (7) NNI Program Overview.

CONTACT PERSON FOR MORE INFORMATION: Philip J. Lemanski, Executive Director, 130 South Scott Avenue, Tucson, AZ 85701, (520) 901–8500.

Dated: April 4, 2016.

Elizabeth E. Monroe,

Executive Assistant, Morris K. Udall and Stewart L. Udall Foundation, and Federal Register Liaison Officer.

[FR Doc. 2016–08149 Filed 4–5–16; 4:15 pm]

BILLING CODE 6820–FN–P

NATIONAL SCIENCE FOUNDATION

Request of Recommendations for Membership for Directorate and Office Advisory Committees

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) requests recommendations for membership on its scientific and technical federal advisory committees. Recommendations should consist of the submitting person's or organization's name and affiliation, the name of the recommended individual, the recommended individual's curriculum vita, an expression of the individual's interest in serving, and the following recommended individual's contact information: employment address, telephone number, FAX number, and email address. Self recommendations are accepted. If you would like to make a membership recommendation for any of the NSF scientific and technical Federal advisory committees, please send your recommendation to the appropriate committee contact person listed in the chart below.

ADDRESSES: The mailing address for the National Science Foundation is 4201 Wilson Boulevard, Arlington, VA 22230.

Web links to individual committee information may be found on the NSF Web site: NSF Advisory Committees.

SUPPLEMENTARY INFORMATION: Each Directorate and Office has an external advisory committee that typically meets twice a year to review and provide advice on program management; discusses current issues; and reviews and provides advice on the impact of policies, programs, and activities in the disciplines and fields encompassed by the Directorate or Office. In addition to Directorate and Office advisory committees, NSF has several committees that provide advice and recommendations on specific topics including: astronomy and astrophysics; environmental research and education; equal opportunities in science and engineering; advanced cyberinfrastructure; international science and engineering; and business and operations.

A primary consideration when formulating committee membership is recognized knowledge, expertise, or demonstrated ability.[1] Other factors that may be considered are balance among diverse institutions, regions, and groups underrepresented in science, technology, engineering, and mathematics. Committee members serve for varying term lengths, depending on the nature of the individual committee. Although we welcome the recommendations we receive, we regret that NSF will not be able to acknowledge or respond positively to each person who contacts NSF or has been recommended. NSF intends to publish a similar notice to this on an annual basis. NSF will keep recommendations active for 12 months from the date of receipt.

The chart below is a listing of the committees seeking recommendations for membership. Recommendations should be sent to the contact person identified below. The chart contains web addresses where additional information about individual committees are available.

Advisory committee	Contact person
Advisory Committee for Biological Sciences *http://www.nsf.gov/bio/advisory.jsp.*	Charles Liarakos, Directorate for Biological Sciences; phone: (703) 292–8400; email: *cliarako@nsf.gov;* fax: (703) 292–9154.
Advisory Committee for Computer and Information Science and Engineering *http://www.nsf.gov/cise/advisory.jsp.*	Carmen Whitson, Directorate for Computer and Information Science and Engineering; phone: (703)292–8900; email: *cwhitson@nsf.gov;* fax: (703) 292–9074.
Advisory Committee for Cyberinfrastructure *https://www.nsf.gov/cise/aci/advisory.jsp.*	Kristen Oberright, Division of Advanced Cyberinfrastructure, phone: (703) 292–7151; *koberrig@nsf.gov;* fax: (703) 292–9060.
Advisory Committee for Education and Human Resources *http://www.nsf.gov/ehr/advisory.jsp.*	Keaven Stevenson, Directorate for Education and Human Resources; phone: (703) 292–8600; email: *kstevens@nsf.gov;* fax: (703) 292–9179.
Advisory Committee for Engineering *http://www.nsf.gov/eng/advisory.jsp.*	Cecile Gonzalez, Directorate for Engineering; phone: (703) 292–8300; email: *cjgonzal@nsf.gov;* fax: (703) 292–9013.
Advisory Committee for Geosciences *http://www.nsf.gov/geo/advisory.jsp.*	Melissa Lane, Directorate for Geosciences: phone: (703) 292–8500; email: *mlane@nsf.gov;* fax: (703) 292–9042.
Advisory Committee for International Science and Engineering *http://www.nsf.gov/od/oise/advisory.jsp.*	Cassandra Dudka, Office of International Science and Engineering, phone: (703) 292–7250; email: *cdudka@nsf.gov;* fax: (703) 292–9067.
Advisory Committee for Mathematical and Physical Sciences *http://www.nsf.gov/mps/advisory.jsp.*	Eduardo Misawa, Directorate for Mathematical and Physical Sciences; phone: (703) 292–8800; email: *emisawa@nsf.gov;* fax: (703) 292–9151.
Advisory Committee for Social, Behavioral & Economic Sciences *http://www.nsf.gov/sbe/advisory.jsp.*	Deborah Olster, Directorate for Social, Behavioral & Economic Sciences; phone: (703) 292–8700; email: *dholster@nsf.gov;* fax: (703) 292–9083.
Committee on Equal Opportunities in Science and Engineering *http://www.nsf.gov/od/oia/activities/ceose/.*	Bernice Anderson, Office of Integrative Activities; phone: (703) 292–8040; email: *banderso@nsf.gov;* fax: (703) 292–9040.
Advisory Committee for Business and Operations *http://www.nsf.gov/oirm/bocomm/.*	Jeffrey Rich, Office of Information and Resource Management; phone: (703) 292–8100; email: *jrich@nsf.gov;* fax:(703) 292–9084.
Advisory Committee for Environmental Research and Education *http://www.nsf.gov/dir/index.jsp?org=ERE.*	Stephen Meacham, Office of Integrative Activities; phone: (703) 292–8040; email: *smeacham@nsf.gov;* fax: (703) 292–9040.
Astronomy and Astrophysics Advisory Committee *http://www.nsf.gov/mps/ast/aaac.jsp.*	Elizabeth Pentecost, Division of Astronomical Sciences; phone: (703) 292–4907; email: *epenteco@nsf.gov;* fax: (703) 292–9034.

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[1] Federally registered lobbyists are not eligible for appointment to these Federal advisory committees.

Dated: April 4, 2016.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2016–07956 Filed 4–6–16; 8:45 am]

BILLING CODE 7555–01–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* April 7, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 31, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 204 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–114, CP2016–145.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–07939 Filed 4–6–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* April 7, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 31, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 49 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–116, CP2016–147.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–07941 Filed 4–6–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* April 7, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 31, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 205 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–115, CP2016–146.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–07940 Filed 4–6–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* April 7, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 31, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 50 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–117, CP2016–148.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–07942 Filed 4–6–16; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77495; File No. SR–NASDAQ–2016–046]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Fees Under Rules 7015(b) and (g)

April 1, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 29, 2016, The NASDAQ Stock Market LLC ("Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's access services fees at Rules 7015(b) and (g) to increase the port fees charged to members and non-members for ports used to enter orders into Exchange systems, in connection with the use of the FIX, RASH and OUCH trading telecommunication protocols. While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on April 1, 2016.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rules 7015(b) and (g) to increase the monthly fees it charges for ports used to enter orders in the Nasdaq Market Center for the trading of equities, in connection with the use of the FIX, RASH, and OUCH trading telecommunication protocols. Specifically, the Exchange is proposing to increase the fee assessed for a FIX Trading Port from $550/port/month to $575/port/month, to increase the fee assessed for a RASH port from $550/port/month to $575/port/month, and to increase the fee assessed for an OUCH port from $550/port/month to $575/port/month.

The Exchange is proposing to increase charges assessed for these connectivity options in light of a recent upgrade to the hardware supporting the ports to FPGA technology.[3] FPGA technology is a hardware-delivery mechanism and an upgrade to the software and software-and-hardware based mechanisms previously used for FIX, RASH, and OUCH trading ports. By taking advantage of hardware parallelism, FPGA technology is capable of processing more data packets during peak market conditions without the introduction of variable queuing latency. In other words, upgrading to FPGA technology improves the predictability of the telecommunications ports and thereby adds value to the user experience. In terms of messaging, the data content and sequencing on the new FPGA technology hardware of the upgraded trading ports is the same as on the legacy software-based versions of the Exchange's ports that were replaced.

The Exchange is offering new technology in order to keep pace with changes in the industry and evolving customer needs as new technologies emerge and products continue to develop and change. The Exchange is increasing the subscription fees for the upgraded ports to offset the costs associated with offering the new hardware, which include procuring, shipping, installing, and maintaining the new equipment and codebase.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(5) of the Act,[5] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange continuously strives to offer members state of the art technology to enhance their trading experience and thereby enhance the national market system. Incremental enhancements such as the advent of FPGA technology has [sic] helped make the U.S. markets the deepest, most liquid markets in the world. The FPGA hardware applied to the trading ports improves their predictability. Thus, the new hardware further perfects the mechanism of a free and open market and a national market system.

The Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act[6] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and it does not unfairly discriminate between customers, issuers, brokers or dealers.

Specifically, the Exchange believes that the proposed increased fees are reasonable because they are based on the costs associated with purchasing hardware (capital expenditures) and supporting and maintaining the infrastructure (operating expenditures) for the FPGA enhancement. The Exchange also believes that the proposed fees are equitable and not unfairly discriminatory because the fees apply equally to all users of the FPGA-enhanced ports and the fees applied in direct proportion to the number of ports used by each member.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable.

In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, the Exchange believes that the proposed rule change is pro-competitive in that the enhancements improve the competitiveness of the Exchange and the overall quality of the national market system. If, as the Exchange believes, the FPGA enhancement provides the Exchange a competitive advantage, other exchanges will quickly respond by enhancing their own markets in the same way. Such innovation and imitation is the very essence of the competition the Exchange Act is designed to promote.[7]

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[3] The Exchange has previously implemented FPGA hardware and increased the fees proposed in this filing in connection with the use of the FIX, RASH, and OUCH trading ports; however, due to technical issues with the implementation the Exchanged determined to roll back the FPGA implementation and associated increased fees. *See* Securities Exchange Act Release No. 75882 (September 10, 2015), 80 FR 55698 (September 16, 2015) (SR–NASDAQ–2015–110); *see also* Securities Exchange Act Release No. 77077 (February 8, 2016), 81 FR 7597 (February 12, 2016) (SR–NASDAQ–2016–014). The Exchange has resolved prior issues with the technology and implemented the FPGA hardware on FIX, RASH, and OUCH trading ports beginning February 8, 2016. Since implementation, the Exchange has not encountered any issues with the new hardware, and has observed improvements to the predictability of the telecommunications ports, as was anticipated.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2016–046 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2016–046. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2016–046, and should be submitted on or before April 27, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Brent J. Fields,

Secretary.

[FR Doc. 2016–07937 Filed 4–6–16; 8:45 am]

BILLING CODE 8011–01–P

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[7] The Chicago Mercantile Exchange is currently using FPGA technology in order entry ports for the trading of futures. *See https://www.cmegroup.com/globex/files/NewiLinkArchitecture2014.pdf*.

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77499; File No. SR–BATS–2016–04]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Amendment No. 2, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of the SPDR DoubleLine Short Duration Total Return Tactical ETF of the SSgA Active Trust

April 1, 2016.

I. Introduction

On February 4, 2016, BATS Exchange, Inc. ("BATS" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares ("Shares") of the SPDR DoubleLine Short Duration Total Return Tactical ETF ("Fund") of the SSgA Active Trust ("Trust") pursuant to BATS Rule 14.11(i). A notice of the proposed rule change was published in the **Federal Register** on February 12, 2016.[3] On March 8, 2016, the Exchange filed Amendment No. 1 to the proposed rule change. On March 24, 2016, the Exchange withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change.[4] On March 25, 2016, pursuant to Section 19(b)(2) of the Act,[5] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[6] The Commission received no comments on the proposal. The Commission is publishing this notice to solicit comments on Amendment No. 2 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

II. The Exchange's Description of the Proposal

The Exchange proposes to list and trade the Shares under BATS Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by the Trust, which is registered with the Commission as an investment company.[7] The investment adviser to the Fund will be SSGA Funds Management, Inc. ("Adviser"), and the sub-adviser to the Fund will be DoubleLine Capital LP ("Sub-Adviser").[8] The Adviser will serve as the Fund's administrator. State Street Global Markets, LLC will be the principal underwriter and distributor of the Fund's Shares. State Street Bank and Trust Company will serve as the sub-administrator, custodian, transfer agent, and, where applicable, lending agent for the Fund.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77078 (February 8, 2016), 81 FR 7599.

[4] In Amendment No. 2, which replaced the original filing in its entirety, the Exchange: (1) Modified the name of the Fund by replacing the word "Term" with "Duration;" (2) clarified that, under normal circumstances, at least 80% of the Fund's net assets (plus the amount of borrowings for investment purposes) will be invested in its principal holdings; (3) stated that the Fund may invest up to 20% of its portfolio in securities issued or guaranteed by state or local governments or their agencies or instrumentalities; (4) clarified which assets held by the Fund would trade on markets that are members of the Intermarket Surveillance Group or that have entered into a comprehensive surveillance agreement with the Exchange; (5) clarified the application of the investment restrictions to derivatives and restricted securities; (6) described how fixed income instruments, including municipal securities, would be valued for purposes of calculating the net asset value of the Fund; (7) clarified that all statements and representations made in the filing regarding the description of the portfolio, limitations on portfolio holdings or reference assets, or the applicability of Exchange rules and surveillance procedures constitute continued listing requirements for listing the Shares on the Exchange; (8) stated that the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements, and if the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12; and (9) made other technical amendments. Amendment No. 2 is available at: *http://www.sec.gov/comments/sr-bats-2016-04/bats201604.shtml*.

[5] 15 U.S.C. 78s(b)(2).

[6] *See* Securities Exchange Act Release No. 77451, 81 FR 18660 (March 31, 2016).

The investment objective of the Fund is to seek to maximize current income with a dollar-weighted average effective duration between one and three years. To achieve its objective, the Fund will invest, under normal circumstances,[9] in a diversified portfolio of fixed income securities of any credit quality, subject to certain limitations set forth below.

A. The Fund's Principal Investments

The Fund intends to achieve its investment objective by investing, under normal circumstances, at least 80% of its net assets (plus the amount of borrowings for investment purposes) in a diversified portfolio of Fixed Income Securities, which are defined as the following instruments: Securities issued or guaranteed by the U.S. government or its agencies, instrumentalities or sponsored corporations; inflation protected public obligations of the U.S. Treasury; securities issued or guaranteed by state or local governments or their agencies or instrumentalities;[10] asset-backed securities ("ABS"), which include the following: Agency and non-agency residential mortgage-backed securities, agency and non-agency commercial mortgage-backed securities, and any other agency and non-agency asset-backed securities, collateralized debt obligations, collateralized loan obligations, collateralized bond obligations, collateralized mortgage obligations, Real Estate Mortgage Investment Conduits ("REMICs"), and REMICs that have been resecuritized;[11] stripped securities; zero coupon securities; foreign (including emerging markets) and domestic corporate bonds;[12] sovereign debt; bank loans;[13] preferred securities; and exchange traded products ("ETPs") that invest in Fixed Income Securities.[14] To the extent applicable, debt instruments that comprise Fixed Income Securities may be either fixed rate securities, floating securities, or variable rate securities.

B. The Fund's Non-Principal Investments

While the Adviser and Sub-Adviser, under normal circumstances, will invest at least 80% of the Fund's net assets (plus the amount of any borrowings for investment purposes) in the instruments described above, the Adviser and Sub-Adviser may invest up to 20% of the Fund's net assets in other securities and financial instruments, as described below.

The Fund may invest in repurchase agreements with commercial banks, brokers or dealers to generate income from its excess cash balances and to invest securities lending cash collateral. The Fund may also enter into reverse repurchase agreements.[15]

The Fund may invest in exchange-traded[16] and over-the-counter ("OTC") U.S. common stocks, exchange-traded common stocks of foreign corporations,[17] and unsponsored ADRs.

The Fund may invest in convertible securities.

The Fund may lend its portfolio securities in an amount not to exceed 33⅓% of the value of its total assets via a securities lending program.[18]

In addition to repurchase agreements, the Fund may invest in short-term instruments, including money market instruments, cash, and cash equivalents, on an ongoing basis to provide liquidity or for other reasons.[19]

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[7] The Trust is registered under the Investment Company Act of 1940 ("1940 Act"). *See* Registration Statement on Form N–1A for the Trust, dated October 8, 2015 (File Nos. 333–173276 and 811–22542) ("Registration Statement"). In addition, the Exchange states that the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 29524 (December 13, 2010) (File No. 812–13487).

[8] The Adviser and Sub-Adviser are not registered as broker-dealers, but the Adviser is affiliated with a broker-dealer and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition of or changes to the portfolio. In the event (a) the Adviser or Sub-Adviser become registered broker-dealers or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition of or changes to the portfolio, and it will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

[9] The term "under normal circumstances" includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[10] No more 20% of the Fund's net assets will be invested in securities issued or guaranteed by state or local governments or their agencies or instrumentalities. *See* Amendment No. 2, *supra* note 4.

[11] The Fund intends to invest at least 25% of its net assets in mortgage-backed securities of any maturity or type guaranteed by, or secured by collateral that is guaranteed by, the United States Government, its agencies, instrumentalities or sponsored corporations. The Fund may invest up to 20% of its net assets in the aggregate in non-agency ABS.

[12] The Sub-Adviser expects that, under normal circumstances, the Fund will generally seek to invest in corporate bond issuances that have at least $100,000,000 par amount outstanding in developed countries and at least $200,000,000 par amount outstanding in emerging market countries. Corporate bonds that in the aggregate account for at least 75% of the weight of the Fund's corporate bonds will have a minimum original principal outstanding of $100 million or more.

[13] No more 20% of the Fund's net assets will be invested in junior bank loans.

[14] For purposes of this filing, ETPs include those securities described in BATS Rule 14.11, and all ETPs held by the Fund will be listed and traded in the U.S. on national securities exchanges. While the Fund may invest in inverse ETPs, the Fund will not invest in leveraged or inverse leveraged ETPs. The Fund may invest up to 20% of its net assets in one or more ETPs that are qualified publicly traded partnerships and whose principal activities are the buying and selling of commodities or options, futures, or forwards with respect to commodities.

[15] The Fund's exposure to reverse repurchase agreements will be covered by securities having a value equal to or greater than such commitments. The Fund does not expect to engage, under normal circumstances, in reverse repurchase agreements with respect to more than 10% of its net assets.

[16] All exchange-traded equity securities in which the Fund may invest will trade on markets that are members of the Intermarket Surveillance Group ("ISG") or that have entered into a comprehensive surveillance agreement with the Exchange.

[17] The Fund's investments in common stocks of foreign corporations may also be in the form of American Depositary Receipts ("ADRs"), Global Depositary Receipts, and European Depositary Receipts (collectively "Depositary Receipts"). The Fund may invest in sponsored or unsponsored ADRs; however, not more than 10% of the net assets of the Fund will be invested in unsponsored ADRs.

[18] A securities lending program allows the Fund to receive a portion of the income generated by lending its securities and investing the respective collateral. The Fund will receive collateral for each loaned security which is at least equal to 102% of the market value of that security, marked to market each trading day.

[19] Money market instruments are generally short-term investments that may include but are not limited to: (1) Shares of money market funds; (2) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities (including government-sponsored enterprises); (3) negotiable certificates of deposit, bankers' acceptances, fixed time deposits, and other obligations of U.S. and foreign banks (including foreign branches) and similar institutions; (4) commercial paper rated at the date of purchase "Prime-1" by Moody's or "A–1" by S&P, or if unrated, of comparable quality as determined by the Adviser; (5) non-convertible corporate debt securities with remaining maturities at the date of purchase of not more than 397 days and that satisfy the rating requirements set forth in Rule 2a–7 under the 1940 Act; and (6) short-term U.S. dollar-

Continued

The Fund may conduct foreign currency transactions on a spot or forward basis.

The Fund may invest in inverse floating rate debt instruments.

In addition to ETPs that invest in Fixed Income Securities, the Fund may also invest in the securities of non-exchange traded investment companies, including affiliated funds and money market funds, subject to applicable limitations under Section 12(d)(1) of the 1940 Act.

The Fund may invest in the securities of real estate investment trusts.

The Fund may invest up to 20% of its assets in the following derivatives: Exchange-traded futures on Treasuries or Eurodollars; U.S. exchange-traded or OTC put and call options contracts, and OTC or exchange-traded swap agreements on Fixed Income Securities and/or derivatives on indices based on Fixed Income Securities (including interest rate swaps, total return swaps, excess return swaps, and credit default swaps).[20]

The Fund may also invest in Restricted Securities.[21]

C. The Fund's Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Restricted Securities deemed illiquid by the Adviser or Sub-Adviser[22] under the 1940 Act. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are invested in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund intends to qualify each year as a regulated investment company under the Internal Revenue Code.

The Fund's investments will be consistent with its investment objective and will not be used to seek to achieve leveraged or inverse leveraged returns.

Under normal circumstances, the combined total of corporate, sovereign, non-agency, and all other debt rated below investment grade will not exceed 40% of the Fund's net assets.

The Fund may invest up to 15% of its net assets in securities denominated in foreign currencies, and may invest beyond this limit in U.S. dollar-denominated securities of foreign issuers. The Fund may invest up to 20% of its net assets in securities and instruments that are economically tied to emerging market countries.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[23] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Exchange Act,[24] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission also finds that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,[25] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

Quotation and last-sale information for the Shares will be available on the facilities of the Consolidated Tape Association ("CTA"). With respect to the Fund, an estimated value, defined in BATS Rule 14.11(i)(3)(C) as the "Intraday Indicative Value," which reflects an estimated intraday value of the Fund's portfolio, will be based upon the current value for the components of the Disclosed Portfolio[26] and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours.[27] On each business day, before commencement of trading in Shares during Regular Trading Hours, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of the net asset value ("NAV") at the end of the business day.[28] The Fund's Web site will also include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. The intra-day, closing, and settlement prices of exchange-listed instruments (including exchange-traded Depositary Receipts, preferred securities, convertible securities, common stock, futures, ETPs, and QPTPs) will be readily available from the exchanges trading such instruments as well as automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters.

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denominated obligations of foreign banks (including U.S. branches) that, in the opinion of the Adviser, are of comparable quality to obligations of U.S. banks which may be purchased by the Fund.

[20] This 20% limit on derivatives will be calculated according to the total absolute notional value of the Fund's derivatives. Additionally, to the extent that the derivatives held by the Fund overlie any of the assets subject to limitations described in the proposed rule change, such derivatives will be counted toward those limitations.

[21] "Restricted Securities," for purposes of this filing, are defined as Rule 144A securities. To the extent that the Fund's holding of Restricted Securities include any of the assets subject to limitations described in the proposed rule change, such holdings will be subject to those limitations.

[22] In reaching liquidity decisions, the Adviser and Sub-Adviser may consider factors including: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.*, the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[23] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[26] The term "Disclosed Portfolio" is defined in BATS Rule 14.11(i)(3)(B). The Disclosed Portfolio will include, as applicable: Ticker symbol; CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security, commodity, index, or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value, or number of shares, contracts, or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

[27] According to the Exchange, several major market data vendors display and/or make widely available Intraday Indicative Values published via the CTA or other data feeds.

[28] The NAV of the Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the Exchange, generally 4:00 p.m. Eastern Time ("NAV Calculation Time") on each day that the Exchange is open for trading, based on prices at the NAV Calculation Time.

Price information regarding U.S. exchange-listed equities will also be available on the facilities of the CTA. Intraday and closing price information for exchange-traded options and futures will be available from the applicable exchange and from major market data vendors. In addition, price information for U.S. exchange-traded options will be available from the Options Price Reporting Authority. Quotation information from brokers and dealers or pricing services will be available for Fixed Income Securities. Price information regarding spot currency transactions and OTC-traded derivative instruments, including options, swaps, and forward currency transactions, as well as equity securities traded in the OTC market, including Restricted Securities, inverse floaters, short-term instruments, OTC-traded preferred securities, OTC-traded ADRs, and OTC-traded convertible securities, is available from major market data vendors. Price information for repurchase and reverse repurchase agreements will generally be available through nationally recognized data service providers through subscription arrangements.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. The Exchange will halt trading in the Shares under the conditions specified in BATS Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.[29] Trading in the Shares also will be subject to BATS Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted. The Exchange states it prohibits the distribution of material non-public information by its employees. The Adviser and Sub-Adviser are not registered as broker-dealers, but the Adviser is affiliated with a broker-dealer and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition of or changes to the portfolio.[30]

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. The Exchange represents that trading in the Shares will be subject to the Exchange's surveillance procedures, which are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.

The Exchange represents that it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made the following representations:

(1) The Shares will be subject to BATS Rule 14.11(i), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares.

(4) The Exchange may obtain information regarding trading in the Shares and the underlying exchange traded investment companies, equity securities, futures, and options via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine. The Exchange can also access municipal bond trading activity for surveillance purposes in connection with trading in the Shares through the Municipal Securities Rulemaking Board's Electronic Municipal Market Access.

(5) All of the exchange-listed assets will trade on markets that are a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

(6) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (i) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (ii) BATS Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (iii) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (iv) the risks involved in trading the Shares during the Pre-Opening and After Hours Trading Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (v) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (vi) trading information.

(7) For initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[31]

(8) The Fund will not invest more than 20% of its net assets in the aggregate in non-agency ABS.

(9) Under normal circumstances, the Fund will generally seek to invest in corporate bond issuances that have at least $100,000,000 par amount outstanding in developed countries and at least $200,000,000 par amount outstanding in emerging market countries. Corporate bonds that in the aggregate account for at least 75% of the weight of the Fund's corporate bonds will have a minimum original principal outstanding of $100 million or more.

(10) Under normal circumstances, the combined total of corporate, sovereign, non-agency, and all other debt rated below investment grade will not exceed 40% of the Fund's net assets.

(11) The Fund will not invest more than 15% of its net assets in securities denominated in foreign currencies, and will not invest more than 20% of its net assets in securities and instruments that are economically tied to emerging market countries.

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[29] These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments composing the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

[30] *See supra* note 8. The Exchange represents that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940.

[31] 17 CFR 240.10A–3.

(12) No more 20% of the Fund's net assets will be invested in junior bank loans.

(13) While the Fund may invest in inverse ETPs, the Fund will not invest in leveraged or inverse leveraged ETPs.

(14) A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange.

The Exchange represents that all statements and representations made in the filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under BATS Rule 14.12.

This approval order is based on all of the Exchange's representations, including those set forth above and in Amendment No. 2. The Commission notes that the Fund and the Shares must comply with the requirements of BATS Rule 14.11(i) to be initially and continuously listed and traded on the Exchange.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Exchange Act [32] and Section 11A(a)(1)(C)(iii) of the Exchange Act [33] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments on Amendment No. 2

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 2 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–BATS–2016–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BATS–2016–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BATS–2016–04, and should be submitted on or before April 28, 2016.

V. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the thirtieth day after the date of publication of Amendment No. 2 in the **Federal Register**. The additional information in Amendments No. 2 helped the Commission to evaluate the Shares' susceptibility to manipulation and the Exchange's ability to investigate possible manipulative activity. Amendment No. 2 also provided clarifications and additional details to the proposed rule change. Accordingly, the Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis, pursuant to Section 19(b)(2) of the Act.[34]

VI. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Exchange Act,[35] that the proposed rule change (SR–BATS–2016–04), as modified by Amendment No. 2, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Brent J. Fields,

Secretary.

[FR Doc. 2016–07938 Filed 4–6–16; 8:45 am]

BILLING CODE 8011–01–P

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[32] 15 U.S.C. 78f(b)(5).

[33] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[34] 15 U.S.C. 78s(b)(2).

[35] 15 U.S.C. 78s(b)(2).

[36] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 9512]

Certification Related to the Government of Haiti Under the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016

Pursuant to the authority vested in the Secretary of State, including under section 7045(c)(2) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016 (Div. K, Pub. L. 114–113), I hereby certify that the Government of Haiti is taking effective steps to:

- Hold free and fair parliamentary elections and seat a new Haitian parliament;
- Strengthen the rule of law in Haiti, including by selecting judges in a transparent manner; respect the independence of the judiciary; and improve governance by implementing reforms to increase transparency and accountability;
- Combat corruption, including by implementing the anti-corruption law enacted in 2014 and prosecuting corrupt officials; and
- Increase government revenues, including by implementing tax reforms, and increase expenditures on public services.

Dated: March 31, 2016.

John F. Kerry,

Secretary of State.

[FR Doc. 2016–08066 Filed 4–6–16; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–11426; FMCSA–2002–12844; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2005–22727; FMCSA–2005–23099; FMCSA–2007–0071; FMCSA–2007–27897; FMCSA–2009–0206; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0140; FMCSA–2011–0141; FMCSA–2011–0325; FMCSA–2011–0365; FMCSA–2011–0366; FMCSA–2013–0167; FMCSA–2013–0168; FMCSA–2013–0169; FMCSA–2013–0170; FMCSA–2013–0174]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 91 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: Each group of renewed exemptions are effective from the dates stated in the discussions below. Comments must be received on or before May 9, 2016.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2001–11426; FMCSA–2002–12844; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2005–22727; FMCSA–2005–23099; FMCSA–2007–0071; FMCSA–2007–27897; FMCSA–2009–0206; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0140; FMCSA–2011–0141; FMCSA–2011–0325; FMCSA–2011–0365; FMCSA–2011–0366; FMCSA–2013–0167; FMCSA–2013–0168; FMCSA–2013–0169; FMCSA–2013–0170; FMCSA–2013–0174], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 91 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 91 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. Each individual is identified according to the renewal date.

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. The following group(s) of drivers will receive renewed exemptions effective in the month of March and are discussed below.

As of March 2, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 27 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (70 FR 71884; 71

FR 4632; 73 FR 5259; 74 FR 43217; 74 FR 57551; 74 FR 65842; 75 FR 1451; 75 FR 9482; 76 FR 37169; 76 FR 50318; 76 FR 53710; 76 FR 75942; 76 FR 75943; v77 FR 539; 77 FR 545; 77 FR 10604; 77 FR 10608; 77 FR 10604; 78 FR 63302; 78 FR 64271; 78 FR 64274; 79 FR 10619):

John P. Bails (IA)
Donald J. Bierwirth, Jr. (CT)
Lester E. Burns (NM)
Cris D. Bush (TN)
Bruce A. Cameron (ND)
Billy C. Chenault (NM)
Eugene Contreras (NM)
Jim L. Davis (NM)
Eric DeFrancesco (PA)
David E. Evans (NC)
Jason L. Hoovan (UT)
Amos W. Hulsey (AL)
Brandon C. Koopman (NE)
Curtis M. Lawless (VA)
Norman V. Myers (WA)
Millard F. Neace II (WV)
William E. Norris (NC)
Paul D. Prillaman (VA)
Richard E. Purvenas, Jr. (DE)
Scott Randol (MO)
Mark C. Reineke (NM)
Miguel A. Sanchez (NM)
Tigran Semerjyan (CA)
Lawrence D. Ventimiglia (NV)
James Vickery (KY)
Norman J. Watson (NC)
Reginald J. Wuethrich (IL)

The drivers were included in one of the following dockets: Docket Nos. FMCSA–2005–22727; FMCSA–2009–0206; FMCSA–2009–0291; FMCSA–2011–0140; FMCSA–2011–0141; FMCSA–2011–0325; FMCSA–2013–0167; FMCSA–2013–0168; FMCSA–2013–0169; FMCSA–2013–0170. Their exemptions are effective as of March 2, 2016 and will expire on March 2, 2018.

As of March 5, 2016 and in accordance with 49 U.S.C. 31136(e) and 31315, the following 10 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (68 FR 74699; 69 FR 10503; 70 FR 57353; 70 FR 72689; 71 FR 6829; 72 FR 39879; 72 FR 52419; 72 FR 62897; 73 FR 8392; 74 FR 64124; 75 FR 8184; 77 FR 7233; 79 FR 10602):

Lee A. Burke (WI)
Barton C. Caldara (WI)
Allan Darley (UT)
Richard Hailey, Jr. (DC)
Robert V. Hodges (IL)
John R. Knott, III (MD)
Timothy S. Miller (AZ)
Edward D. Pickle (GA)
Robert L. Thies (IN)
James T. Wortham, Jr. (GA)

The drivers were included in one of the following dockets: Docket No. FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2007–27897. Their exemptions are effective as of March 5, 2016 and will expire on March 5, 2018.

As of March 7, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 6 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (77 FR 3552; 77 FR 13691; 79 FR 12565):

Richard P. Frederiksen (WY)
Samuel V. Holder (IL)
Dennis J. Lessard (IN)
Jerry L. Pettijohn (OK)
Jake F. Richter (KS)
Robert J. Townsley (VA)

The drivers were included in one of the following dockets: Docket No. FMCSA–2011–0365. Their exemptions are effective as of March 7, 2016 and will expire on March 7, 2018.

As of March 13, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 20 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (79 FR 1908; 79 FR 14333):

Jeffrey A. Benoit (VT)
Norvan D. Brown (IA)
Jackie K. Curlin (KY)
Justin W. Demarchi (OH)
Gary A. Goostree (OH)
Jimmey C. Harris (TX)
David G. Henry (TX)
Rogelio C. Hernandez (CA)
Michael J. Hoskins (KS)
Zion Irizarry (NV)
Mohamed H. Issak (KS)
Juan J. Luna (CA)
Robert Mollicone (FL)
Christopher D. Moore (NC)
Elmore Nicholson, Jr. (AL)
James C. Paschal, Jr. (GA)
Harold D. Pressley (TX)
Jason C. Sadler (KY)
Robert Schick (PA)
Michael O. Thomas (NC)

The drivers were included in one of the following dockets: Docket No. FMCSA–2013–0174. Their exemptions are effective as of March 13, 2016 and will expire on March 13, 2018.

As of March 15, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 11 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (67 FR 68719; 68 FR 2629; 70 FR 7545; 71 FR 4194; 71 FR 13450; 72 FR 39879; 72 FR 40362; 72 FR 52419; 73 FR 9158; 74 FR 43217; 74 FR 57551; 74 FR 64124; 74 FR 65842; 75 FR 1451):

Gene Bartlett, Jr. (VT)
Ronald D. Boeve (MI)
Daniel M. Cannon (OR)
Wayne H. Holt (UT)
Billy R. Jeffries (WV)
Guy A. Lanham (FL)
Oscar N. Lefferts (AL)
Willie L. Parks (CA)
Bradley S. Sanders (NM)
Gary N. Wilson (UT)
William B. Wilson (KY)

The drivers were included in one of the following dockets: Docket No. FMCSA–2002–12844; FMCSA–2005–23099; FMCSA–2007–27897; FMCSA–2009–0206; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0365. Their exemptions are effective as of March 15, 2016 and will expire on March 15, 2018.

As of March 23, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 6 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (67 FR 10471; 67 FR 19798; 69 FR 26206; 77 FR 5874; 77 FR 17117; 79 FR 13085):

Paul R. Barron (MO)
Eugenio V. Bermudez (MA)
Johnny Dillard (SC)
Edward M. Jurek (NY)
Glenn R. Theis (MN)
Peter A. Troyan (MI)

The drivers were included in one of the following dockets: Docket No. FMCSA–2001–11426; FMCSA–2011–0366. Their exemptions are effective as of March 23, 2016 and will expire on March 23, 2018.

As of March 31, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 11 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (68 FR 74699; 69 FR 10503; 71 FR 6829; 73 FR 6242; 73 FR 8392; 73 FR 16950; 75 FR 8184; 75 FR 9477; 77 FR 7723; 77 FR 13689; 79 FR 14331):

Alberto Blanco (NC)
Charles W. Cox (AR)
Gary W. Ellis (NC)
Robin S. England (GA)
W. R. Goold (AZ)
K. L. Guse (OH)
Steven W. Halsey (MO)
John C. Henricks (OH)
Thomas M. Leadbitter (PA)
Jonathan P. Lovel (IL)
Kent S. Reining (IL)

The drivers were included in one of the following dockets: Docket No. FMCSA–2003–16564; FMCSA–2007–0071. Their exemptions are effective as of March 31, 2016 and will expire on March 31, 2018.

Each of the 91 applicants listed in the groups above has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by May 9, 2016.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 91 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2001–11426; FMCSA–2002–12844; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2005–22727; FMCSA–2005–23099; FMCSA–2007–0071; FMCSA–2007–27897; FMCSA–2009–0206; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0140; FMCSA–2011–0141; FMCSA–2011–0325; FMCSA–2011–0365; FMCSA–2011–0366; FMCSA–2013–0167; FMCSA–2013–0168; FMCSA–2013–0169; FMCSA–2013–0170; FMCSA–2013–0174 and click the search button. When the new screen appears, click on the blue "Comment Now!" button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2001–11426; FMCSA–2002–12844; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2005–22727; FMCSA–2005–23099; FMCSA–2007–0071; FMCSA–2007–27897; FMCSA–2009–0206; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0140; FMCSA–2011–0141; FMCSA–2011–0325; FMCSA–2011–0365; FMCSA–2011–0366; FMCSA–2013–0167; FMCSA–2013–0168; FMCSA–2013–0169; FMCSA–2013–0170; FMCSA–2013–0174 and click "Search." Next, click "Open Docket Folder" and you will find all documents and comments related to the proposed rulemaking.

Issued on: March 31, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–08059 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–5748; FMCSA–1999–6156; FMCSA–1999–6480; FMCSA–2001–11426; FMCSA–2003–15892; FMCSA–2003–16241; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2005–23099; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2007–0071; FMCSA–2007–28695; FMCSA–2008–0231; FMCSA–2009–0011; FMCSA–2009–0086; FMCSA–2009–0154; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0299; FMCSA–2011–0324; FMCSA–2011–0365; FMCSA–2011–0366; FMCSA–2011–0378; FMCSA–2013–0170; FMCSA–2014–0002]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 87 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: Each group of renewed exemptions are effective from the dates stated in the discussions below. Comments must be received on or before May 9, 2016.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Numbers: Docket No. [Docket No. FMCSA–1999–5748; FMCSA–1999–6156; FMCSA–1999–6480; FMCSA–2001–11426; FMCSA–

2003–15892; FMCSA–2003–16241; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2005–23099; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2007–0071; FMCSA–2007–28695; FMCSA–2008–0231; FMCSA–2009–0011; FMCSA–2009–0086; FMCSA–2009–0154; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0299; FMCSA–2011–0324; FMCSA–2011–0365; FMCSA–2011–0366; FMCSA–2011–0378; FMCSA–2013–0170; FMCSA–2014–0002], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 87 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 87 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. Each individual is identified according to the renewal date.

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. The following group(s) of drivers will receive renewed exemptions effective in the month of April and are discussed below.

As of April 12, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 13 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (68 FR 61857; 68 FR 75715; 71 FR 644; 72 FR 46261; 72 FR 54972; 73 FR 8392; 73 FR 46973; 73 FR 54888; 74 FR 19267; 74 FR 28094; 74 FR 37295; 74 FR 57553; 74 FR 60021; 75 FR 8184; 76 FR 8809; 76 FR 44652; 76 FR 70210; 76 FR 70212; 76 FR 73769; 77 FR 3547; 77 FR 5874; 77 FR 7233; 77 FR 7657; 77 FR 17117; 77 FR 17119; 77 FR 22059; 77 FR 22061; 78 FR 66099; 78 FR 67455; 79 FR 2248; 79 FR 4805; 79 FR 13085; 79 FR 14328; 79 FR 14332; 79 FR 18390):

Brian F. Denning (CA)
James Esposito, Jr. (PA)
Keith J. Haaf (VA)
Lowell Johnson (MN)
Chet A. Keen (UT)
Allen J. Kunze (ND)
Craig R. Martin (TX)
Daniel I. Miller (PA)
Jason E. Mallette (MS)
John W. Myre (SD)
Ezequiel M. Ramirez (TX)
Mark A. Smalls (GA)
Greg W. Story (NC)

The drivers were included in one of the following dockets: Docket Nos. FMCSA–2003–16241; FMCSA–2007–28695; FMCSA–2008–0231; FMCSA–2009–0086; FMCSA–2009–0154; FMCSA–2011–0299; FMCSA–2011–0324; FMCSA–2011–0366; FMCSA–2013–0170. Their exemptions are effective as of April 12, 2016 and will expire on April 12, 2018.

As of April 14, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 19 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (64 FR 40404; 64 FR 54948; 64 FR 66962; 64 FR 68195; 65 FR 159; 65 FR 20251; 66 FR 66969; 67 FR 10475; 67 FR 17102; 68 FR 61860; 68 FR 69432; 68 FR 74699; 68 FR 75715; 69 FR 10503; 69 FR 17267; 69 FR 8260; 70 FR 57353; 70 FR 72689; 71 FR 4194; 71 FR 5105; 71 FR 6824; 71 FR 6825; 71

FR 6826; 71 FR 13450; 71 FR 16410; 71 FR 19600; 71 FR 19602; 73 FR 8392; 73 FR 11989; 74 FR 60022; 75 FR 1835; 75 FR 4623; 75 FR 9482; 75 FR 13653; 77 FR 17107; 79 FR 18391):

Bradley T. Alspach (IL)
Scott E. Ames (ME)
Nick D. Bacon (KY)
Mark A. Baisden (OH)
Johnny W. Bradford, Sr. (KY)
Levi A. Brown (MT)
Charlie F. Cook (GA)
Curtis J. Crowston (ND)
Rupert G. Gilmore III (AL)
Albert L. Gschwind (WI)
Walter R. Hardiman (WV)
Michael W. Jones (IL)
Matthew J. Konecki (MT)
Jack D. Miller (OH)
Eric M. Moats, Sr. (MD)
Robert W. Nicks (NY)
Joseph S. Nix, IV (MO)
Robert V. Sloan (NC)
Steven L. Valley (ME)

The drivers were included in one of the following dockets: Docket No. FMCSA–1999–5748; FMCSA–1999–6156; FMCSA–1999–6480; FMCSA–2003–15892; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2005–23099; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2009–0321. Their exemptions are effective as of April 14, 2016 and will expire on April 14, 2018.

As of April 16, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following individual, Glen A. Schroeder (SD), has satisfied the conditions for obtaining a renewed exemption from the vision requirements (79 FR 10611; 79 FR 22003).

The driver was included in the following docket: Docket No. FMCSA–2014–0002. The exemption is effective as of April 16, 2016 and will expire on April 16, 2018.

As of April 17, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 7 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (77 FR 19749; 77 FR 22838; 79 FR 15794):

Robert J. Abbas (MN)
Paul T. Browning (MT)
Kevan J. Larson (ID)
Gilbert M. Rosas (AZ)
Kim A. Shaffer (PA)
Larry W. Slinker (VA)
Lonnie J. Supanchick (NV)

The drivers were included in one of the following dockets: Docket No. FMCSA–2011–0378. Their exemptions are effective as of April 17, 2016 and will expire on April 17, 2018.

As of April 18, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 27 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (79 FR 10606; 79 FR 10607; 79 FR 10608; 79 FR 10609; 79 FR 10610; 79 FR 10611; 79 FR 22003):

John M. Alfano (MI)
Felipe Bayron (WI)
Thomas Benavidez, Jr. (ID)
Gary A. Budde (IL)
Mark Castleman (MN)
Lorimer Christianson (IA)
David L. Dykes (FL)
Daniel Fedder (IL)
Edward A. Flitton (UT)
Juan Gallo-Gomez (CT)
Andeberhan O. Gidey (WA)
Luis Gomez-Banda (NV)
Christopher Goodwin (NC)
David Knobloch (MI)
Gregory L. Kockelman (MN)
Mark La Fleur (MD)
Jerry P. Lindesmith (OK)
Dennis A. Lindner (MN)
John Murray (WA)
Michael Nichols (GA)
Dino J. Pires (CT)
Anthony S. Poindexter (MD)
Phil N. Schad (MO)
Glen A. Schroeder (OR)
John B. Theres (IL)
Robert S. Waltz (ME)
Willard H. Weerts (IL)

The drivers were included on the following docket: Docket No. FMCSA–2014–0002. Their exemptions are effective as of April 18, 2016 and will expire on April 18, 2018.

As of April 23, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 11 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (67 FR 10471; 67 FR 19798; 68 FR 61857; 68 FR 74699; 68 FR 75715; 69 FR 19611; 71 FR 6825; 71 FR 6829; 71 FR 19604; 72 FR 46261; 72 FR 54972; 72 FR 71993; 73 FR 15254; 73 FR 16950; 74 FR 57553; 74 FR 65842; 75 FR 1835; 75 FR 9478; 75 FR 9482; 75 FR 20881; 77 FR 7657; 77 FR 10604; 77 FR 13689; 77 FR 17115; 77 FR 22059):

Lyle H. Banser (WI)
Cary Carn (NJ)
Charley J. Davis (OK)
Derek T. Ford (MD)
Thomas R. Hedden (IL)
Earl R. Mark (IL)
Richard K. Mell (VA)
Douglas A. Mendoza (MD)
Russell L. Moyers, Sr. (WV)
Danny Rolfe (ME)
Donald Schaeffer (MO)

The drivers were included in one of the following dockets: Docket No. FMCSA–2001–11426; FMCSA–2003–16241; FMCSA–2003–16564; FMCSA–2007–0071; FMCSA–2007–28695; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0324. Their exemptions are effective as of April 23, 2016 and will expire on April 23, 2018.

As of April 27, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 9 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (75 FR 9480; 75 FR 22176; 77 FR 3552; 77 FR 13691; 77 FR 17108; 79 FR 17642; 79 FR 17643):

Chad L. Burnham (ME)
Loren D. Chapman (MN)
David A. Christenson (NV)
John T. Edmondson (AL)
Paul K. Leger (NH)
Martin L. Reyes (IL)
Gerald L. Rush, Jr. (NJ)
Alan T. Watterson (MA)
Larry W. Winkler (MO)

The drivers were included in one of the following dockets: Docket No. FMCSA–2009–0011; FMCSA–2011–0365. Their exemptions are effective as of April 27, 2016 and will expire on April 27, 2018.

Each of the 87 applicants listed in the groups above has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by May 9, 2016.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 87 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–1999–6480; FMCSA–2001–11426; FMCSA–2003–15892; FMCSA–2003–5748; FMCSA–1999–6156; FMCSA–1999–16241; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2005–23099; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2007–0071; FMCSA–2007–28695; FMCSA–2008–0231; FMCSA–2009–0011; FMCSA–2009–0086; FMCSA–2009–0154; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0299; FMCSA–2011–0324; FMCSA–2011–0365; FMCSA–2011–0366; FMCSA–2011–0378; FMCSA–2013–0170; FMCSA–2014–0002 and click the search button. When the new screen appears, click on the blue "Comment Now!" button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–1999–5748; FMCSA–1999–6156; FMCSA–1999–6480; FMCSA–2001–11426; FMCSA–2003–15892; FMCSA–2003–16241; FMCSA–2003–16564; FMCSA–2005–22194; FMCSA–2005–23099; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2007–0071; FMCSA–2007–28695; FMCSA–2008–0231; FMCSA–2009–0011; FMCSA–2009–0086; FMCSA–2009–0154; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0299; FMCSA–2011–0324; FMCSA–2011–0365; FMCSA–2011–0366; FMCSA–2011–0378; FMCSA–2013–0170; FMCSA–2014–0002 and click "Search." Next, click "Open Docket Folder" and you will find all documents and comments related to this notice.

Issued on: March 31, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–08058 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016–0033]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel FISH MASTER; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before May 9, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0033. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel FISH MASTER is:

Intended Commercial Use of Vessel: Recreation Coastwise/Sport Fishing

Geographic Region: "Florida."

The complete application is given in DOT docket MARAD–2016–0033 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 22, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–08006 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016 0032]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel REEL OBSESSION; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before May 9, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0032. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel REEL OBSESSION is:

Intended Commercial Use of Vessel: Use of vessel will be for charter sport fishing

Geographic Region: Wisconsin

The complete application is given in DOT docket MARAD–2016–0032 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 22, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–08001 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016 0038]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel AL VENTO; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before May 9, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0038. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel AL VENTO is: Intended Commercial Use of Vessel: "For charters up to 12 passengers in protected waters on the Hudson River in New York." Geographic Region: "New York, and New Jersey".

The complete application is given in DOT docket MARAD–2016–0038 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

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By Order of the Maritime Administrator.

Dated: March 22, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–07999 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016 0035]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel INSULAE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before May 9, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0035. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel INSULAE is:

INTENDED COMMERCIAL USE OF VESSEL: Charter/6-pack.

GEOGRAPHIC REGION: "Wisconsin".

The complete application is given in DOT docket MARAD–2016–0035 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 22, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–07994 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–MARAD–2016–0030]

Agency Requests for Renewal of a Previously Approved Information Collection(s): United States Merchant Marine Academy (USMMA) Alumni Survey

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the paperwork Reduction Act of 1995, the Maritime Administration (MARAD) invites public comments about our intention to request the Office of Management and Budget's (OMB) approval to renew an information collection. The purpose of the collection is to conduct alumni survey to document student perceptions about education received at the U.S. Merchant Marine Academy (USMMA). The results from the survey will not be used for any type of forecasting or projecting. The results will be tabulated and documented as indirect evidence for accreditation purposes.

DATES: Written comments should be submitted by June 6, 2016.

ADDRESSES: You may submit comments [identified by Docket No. DOT–MARAD–2016–0030] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dr. David Palmer, (516) 726–5707, U.S. Merchant Marine Academy, Kings Point, NY 11024.

SUPPLEMENTARY INFORMATION:Q

OMB Control Number: 2133–0542.

Title: U.S. Merchant Marine Academy Alumni Survey.

Form Numbers: KP2–66–DK1, KP2–67–DK2, KP2–68–DK3, KP2–69–ENG1, KP2–70–ENG2, KP2–71–ENG3.

Type of Review: Renewal of an information collection.

Background: The United States Merchant Marine Academy is an accredited federal service academy that confers BS and MS degrees. The Academy is expected to assess its educational outcomes and report those findings to its Regional Accreditation authority in order to maintain the institution's degree granting status. Periodic survey of alumni cohorts and analysis of the data gathered is a routine higher education assessment practice in the United States.

Respondents: Respondents are graduates of the U.S. Merchant Marine Academy.

Number of Respondents: 600.

Frequency: Annually.

Number of Responses: 600.

Total Annual Burden: 150.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:93.

Dated: March 21, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–08003 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016–0036]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel TUNA HELPER; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before May 9, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0036. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel TUNA HELPER is:

Intended Commercial Use of Vessel: "6-pack charter operations for fishing and pleasure cruises".

Geographic Region: "California".

The complete application is given in DOT docket MARAD–2016–0036 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

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By Order of the Maritime Administrator.

Dated: March 22, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–08009 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016–0034]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LIL BEAR; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before May 9, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0034. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LIL BEAR is:

Intended Commercial Use of Vessel: "Day charter"

Geographic Region: "California"

The complete application is given in DOT docket MARAD–2016–0034 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

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By Order of the Maritime Administrator.

Dated: March 22, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–08008 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016 0037]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel JUBILANT; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before May 9, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0037. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel JUBILANT is: Intended Commercial Use of Vessel: "Private Vessel Charters" Geographic Region: ": Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, California, Oregon, Washington, and Alaska (excluding waters in Southeastern Alaska and waters north of a line between Gore Point to Cape Suckling [including the North Gulf Coast and Prince William Sound])."

The complete application is given in DOT docket MARAD–2016–0037 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

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By Order of the Maritime Administrator.

Dated: March 22, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–08000 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016 0031]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel KARINA JEAN; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before May 9, 2016.

0031. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel KARINA JEAN is:

Intended Commercial Use of Vessel: "Private Vessel Charters, Passengers Only."

Geographic Region: "Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, California, Oregon, Washington, and Alaska (excluding waters in Southeastern Alaska and waters north of a line between Gore Point to Cape Suckling [including the North Gulf Coast and Prince William Sound])."

The complete application is given in DOT docket MARAD–2016–0031 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 22, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–07995 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0014; Notice No. 2016–05]

Hazardous Materials: ICAO Lithium Ion Battery Prohibition Safety Advisory Notice

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Safety advisory notice.

SUMMARY: PHMSA is issuing this safety advisory notice to inform persons engaged in the transport of lithium batteries in commerce of recent actions taken by the International Civil Aviation Organization (ICAO) to enhance the safe transport of lithium batteries by air.

FOR FURTHER INFORMATION CONTACT: Kevin A. Leary, Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, telephone: (202) 366–8553.

SUPPLEMENTARY INFORMATION: This safety advisory notice is to inform persons engaged in the transport of lithium batteries in commerce of recent actions taken by the ICAO to enhance the safe transport of lithium batteries by air. According to the International Coordinating Council of Aerospace Industries Association (ICCAIA), Boeing, and other aircraft manufacturers, the fire suppression capabilities of an aircraft may be exceeded in a situation where heat and flames generated from thermal runaway in a single package of lithium ion batteries spreads to adjacent packages, potentially leading to a catastrophic loss of the aircraft because of a fire that cannot be contained or suppressed.[1]

Testing by the Federal Aviation Administration's William J. Hughes Technical Center (FAA Tech Center) supports the ICCAIA's and aircraft manufacturers' assessments.[2] A fundamental concern highlighted by the FAA Tech Center's research is that the cargo compartment fire protection standards are not designed to address the unique hazards associated with the transport of lithium batteries. Safety concerns include:

- The potential for propagation of thermal runaway between cells or batteries in a package and between adjacent packages of batteries;
- The potential for uncontrolled lithium battery fires to overwhelm the capability of existing aircraft cargo fire protection systems, leading to a catastrophic failure of the airframe; and
- The potential for venting of combustible gases from lithium ion cells in thermal runaway, which could collect in an enclosed environment and cause an explosion even in the presence of a suppression agent.

Specifically, test data from the FAA Tech Center demonstrates that: (1) The ignition of the unburned flammable gases associated with a lithium cell or battery fire could lead to a catastrophic explosion; (2) the current design of the Halon 1301 fire suppression system in a Class C cargo compartment in passenger airplanes is incapable of preventing such an explosion; and (3) the ignition of a mixture of flammable gases could produce an over pressure, which would dislodge pressure relief panels, allow leakage of Halon from the associated cargo compartment, and compromise the ability of fire suppression systems to function as intended. As a result, smoke and fire can spread to adjacent compartments and potentially compromise the entire aircraft.

Based on this information and in conjunction with recommendations developed at the ICAO Multidisciplinary Lithium Battery Transport Coordination Meeting(s), the ICAO amended the 2015–2016 edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO TI) concerning the transport of lithium ion cells and batteries. These amendments, effective April 1, 2016, include:

- A prohibition on the transport of lithium ion cells and batteries as cargo aboard passenger carrying aircraft (this prohibition applies to lithium cells and batteries (UN3480) not contained in or packed with equipment when transported as cargo and does not include batteries contained in personal electronic devices carried by passengers or crew);
- A requirement for lithium ion cells and batteries to be shipped at a state of charge of no more than 30 percent of their rated capacity on cargo aircraft (forbidden on passenger); and
- A limit on the number of packages of both lithium ion and lithium metal batteries that may be offered for transportation on cargo aircraft under current provisions for small cells and batteries to not more than one package per consignment or overpack.

Representatives from the FAA and PHMSA participate in meetings of the ICAO Dangerous Goods Panel—the international body responsible for the ICAO TI. In consultation with the FAA and other relevant government agencies, PHMSA works to periodically harmonize the provisions of the domestic hazardous materials regulations (HMR; 49 CFR parts 171–180) with international regulatory approaches, including the ICAO TI. In coordination with the FAA, PHMSA is considering additional actions, including appropriate amendments to the HMR to address these enhanced safety measures adopted by ICAO.

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[1] *http://www.icao.int/safety/DangerousGoods/DGPWG15/DGPWG.15.WP.004.5.en.pdf.*

[2] *http://www.fire.tc.faa.gov.*

For additional information see:

- *FAA SAFO 16001*[3] issued on January 19, 2016.
- *Addendum No. 3*[4] to the Technical Instructions (2015/2016 Edition) issued on January 15, 2016.
- *Addendum No. 4*[5] to the Technical Instructions (2015/2016 Edition) issued on February 23, 2016.

Issued in Washington, DC on April 1, 2016.

William S. Schoonover,

Deputy Associate Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2016–07936 Filed 4–6–16; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Action Pursuant to Executive Order 13664

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is publishing updated identifying information for one individual whose property and interests in property are blocked pursuant to Executive Order (E.O.) 13664, "Blocking Property of Certain Persons With Respect to South Sudan," who was previously designated and added to OFAC's list of Specially Designated Nationals and Blocked Persons (SDN List).

DATES: OFAC's actions described in this notice were effective April 4, 2016.

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202–622–0077.

Notice of OFAC Actions

On April 4, 2016, OFAC updated the identifying information for one previously designated individual whose property and interests in property are blocked pursuant to E.O. 13664. The updated identifying information for the individual is as follows:

JOK RIAK, Gabriel (a.k.a. JOK, Gabriel; a.k.a. MAKOL, Gabriel Jok Riak; a.k.a. MAKOL, Jok Riak; a.k.a. RIAK, Jock; a.k.a. RIAK, Jok), Wau, Western Bahr El Ghazal State, South Sudan; Unity State, South Sudan; DOB 1966; POB Bor, South Sudan; alt. POB Bor, Sudan; nationality South Sudan; Lieutenant General; Sector One Commander (individual) [SOUTH SUDAN].

Dated: April 4, 2016.

Andrea Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–07989 Filed 4–6–16; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of seven entities whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) (21 U.S.C. 1901–1908, 8 U.S.C. 1182). Additionally, OFAC is publishing additions to the identifying information for five individuals and one entity previously designated pursuant to the Kingpin Act.

DATES: The designations by the Acting Director of OFAC of the seven entities identified in this notice pursuant to section 805(b) of the Kingpin Act are effective on April 4, 2016.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220 Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security, may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On April 4, 2016, the Acting Director of OFAC designated the following seven entities whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

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[3] *https://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/safo/all_safos/media/2016/SAFO16001.pdf.*

[4] *http://www.icao.int/safety/DangerousGoods/AddendumCorrigendum%20to%20the%20Technical%20Instructions/Doc%209284-2015-2016.ADD-3.pdf.*

[5] *http://www.icao.int/safety/DangerousGoods/AddendumCorrigendum%20to%20the%20Technical%20Instructions/Doc%209284-2015-2016.ADD-4.en.pdf.*

Entities

1. AGRICOLA BOREAL S.P.R. DE R.L., Naciones Unidas Numero 6885–22, Colonia Jardines del Tule, Zapopan, Jalisco, Mexico; Folio Mercantil No. 60606 (Mexico) [SDNTK]. Designated for being owned, controlled, or directed by, or acting for or on behalf of, Jeniffer Beaney CAMACHO CAZARES, Diana Maria SANCHEZ CARLON, and/or Silvia Romina SANCHEZ CARLON and therefore meets the statutory criteria for designation pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3).

2. AGRICOLA TAVO S.P.R. DE R.L. (a.k.a. AGRICULTURA TAVO S.P.R. DE R.L.), Zapopan, Jalisco, Mexico; Folio Mercantil No. 59574 (Mexico) [SDNTK]. Designated for being controlled or directed by, or acting for or on behalf of, Diana Maria SANCHEZ CARLON and/or Silvia Romina SANCHEZ CARLON and therefore meets the statutory criteria for designation pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3).

3. ASESORES TURISTICOS S.A. DE C.V., Dr. Jose Maria Vertiz 646, Col. Narvarte, Mexico, DF 03010, Mexico; R.F.C. ATU8707108U5 (Mexico) [SDNTK]. Designated for being owned, controlled, or directed by, or acting for or on behalf of, Abigael GONZALEZ VALENCIA and therefore meets the statutory criteria for designation pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3).

4. DESARROLLO AGRICOLA ORGANICO S.P.R. DE R.L. (a.k.a. DESARROLLO AGRICULTURA ORGANICO, S.P.R. DE R.L.), Guadalajara, Jalisco, Mexico; Folio Mercantil No. 61497 (Mexico) [SDNTK]. Designated for being controlled or directed by, or acting for or on behalf of, Diana Maria SANCHEZ CARLON and/or Silvia Romina SANCHEZ CARLON and therefore meets the statutory criteria for designation pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3).

5. DESARROLLO AGRICOLA VERDE DE SAYULA S.P.R. DE R.L. (a.k.a. DESARROLLO AGRICULTURA VERDE DE SAYULA, S.P.R. DE R.L.), Guadalajara, Jalisco, Mexico; Folio Mercantil No. 61803 (Mexico) [SDNTK]. Designated for being controlled or directed by, or acting for or on behalf of, Diana Maria SANCHEZ CARLON and/or Silvia Romina SANCHEZ CARLON and therefore meets the statutory criteria for designation pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3).

6. STATUS ADMINISTRATIVO S. DE R.L. (a.k.a. STATUS ADMINISTRATIVO S. DE R.L. DE C.V.), Sao Paulo 2435, Guadalajara, Jalisco 44630, Mexico; Carretera A Barra De Navidad, Tomatlan, Jalisco 48460, Mexico; Playon de Mismaloya S/N Cruz de Loreto, Tomatlan Costalegre, Jalisco C.P. 48460, Mexico; Folio Mercantil No. 53243 (Mexico) [SDNTK]. Designated for being controlled or directed by, or acting for or on behalf of, Fernando TORRES GONZALEZ and therefore meets the statutory criteria for designation pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3).

7. STEP LATINAMEDICA S.A. DE C.V., Av. Americas 1501, Piso 20 Punto Sao Paulo, Col. Providencia, Guadalajara, Jalisco C.P. 44630, Mexico; Jose Maria Coss 1522–B, Col. Miraflores, Guadalajara, Jalisco C.P. 44260, Mexico; Web site *http://www.steplatinamedica.com;* alt. Web site *http://steplamed.com;* R.F.C. SLA 111221 6P7 (Mexico) [SDNTK]. Designated for being controlled or directed by, or acting for or on behalf of, Diana Maria SANCHEZ CARLON and therefore meets the statutory criteria for designation pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3).

Additionally, OFAC is publishing additions to the identifying information for the following individuals and entity previously designated pursuant to the Kingpin Act.

Individuals

1. CAMACHO CAZARES, Jeniffer Beaney (a.k.a. CAMACHO CAZARES, Jennifer Beaney; a.k.a. CAMACHO CAZAREZ, Jeniffer Beaney), Sendero De Los Olmos 110, Zapopan, Jalisco 45129, Mexico; 4850 ch de la Cote-Saint-Luc, Montreal, Quebec H3W 2H2, Canada; DOB 01 Feb 1979; POB Ahome, Sinaloa, Mexico; C.U.R.P. CACJ790201MSLMZN03 (Mexico) (individual) [SDNTK] (Linked To: AG & CARLON, S.A. DE C.V.; Linked To: GRUPO DIJEMA, S.A. DE C.V.).

2. GONZALEZ VALENCIA, Abigael (a.k.a. GOMEZ FLORES, Luis Angel; a.k.a. GONZALEZ VALENCIA, Abigail; a.k.a. GONZALEZ VALENCIA, Luis Angel; a.k.a. TAK TOLEDO, Jonathan Paul; a.k.a. TAK TOLEDO, Paul Jonathan), Paseo Royal Country 5395–31, Fraccionamiento Royal Country, Zapopan, Jalisco, Mexico; DOB 18 Oct 1972; alt. DOB 28 Oct 1979; POB Aguililla, Michoacan, Mexico; alt. POB Apatzingan, Michoacan, Mexico; alt. POB Guadalajara, Jalisco, Mexico; Gender Male; C.U.R.P. GOVA721018HMNNLB07 (Mexico); alt. C.U.R.P. GOFL721018HJCMLS02 (Mexico); alt. C.U.R.P. GOVL721018HMNNLS08 (Mexico); Passport JX755855 (Canada) (individual) [SDNTK] (Linked To: LOS CUINIS; Linked To: VALGO GRUPO DE INVERSION S.A. DE C.V.).

3. SANCHEZ CARLON, Diana Maria, Calle Ricardo Palma 2814, Colonia Prados Providencia, Guadalajara, Jalisco, Mexico; DOB 11 Feb 1979; POB Ahome, Sinaloa, Mexico; R.F.C. SACD–790211–KC2 (Mexico); C.U.R.P. SACD790211MSLNRN04 (Mexico) (individual) [SDNTK] (Linked To: AG & CARLON, S.A. DE C.V.; Linked To: AHOME REAL ESTATE, S.A. DE C.V.; Linked To: GRUPO DIJEMA, S.A. DE C.V.; Linked To: CONSULTORIA INTEGRAL LA FUENTE, SOCIEDAD CIVIL).

4. SANCHEZ CARLON, Silvia Romina, Calle Alberta No. 2166, Fraccionamiento Los Colomos, Guadalajara, Jalisco, Mexico; Av. Balam Kanche Mza. 30, Lote 002, Condominio Playa Car Fase II, Playa del Carmen, Quintana Roo 77710, Mexico; DOB 22 Dec 1986; POB Ahome, Sinaloa, Mexico; R.F.C. SACS–861222–PH0 (Mexico); C.U.R.P. SACS861222MSLNRL04 (Mexico) (individual) [SDNTK] (Linked To: AHOME REAL ESTATE, S.A. DE C.V.; Linked To: CONSULTORIA INTEGRAL LA FUENTE, SOCIEDAD CIVIL; Linked To: INTERCORP LEGOCA, S.A. DE C.V.; Linked To: LA FIRMA MIRANDA, S.A. DE C.V.; Linked To: XAMAN HA CENTER).

5. TORRES GONZALEZ, Fernando, Blvd. Puerta de Hierro # 5210, Piso 8–C, Puerta de Hierro, Zapopan, Jalisco 45116, Mexico; Calle Aldama 548, Interior 3, Tepatitlan de Morelos, Jalisco, Mexico; Calle Guadalupe 676, Fraccionamiento Guadalupe, Tepatitlan de Morelos, Jalisco, Mexico; Guayaquil numero 2600, Colonia Providencia, Guadalajara, Jalisco, Mexico; DOB 04 Jul 1970; POB Tepatitlan de Morelos, Jalisco, Mexico; C.U.R.P. TOGF700704HJCRNR06 (Mexico) (individual) [SDNTK] (Linked To: CIRCULO COMERCIAL TOTAL DE PRODUCTOS, S.A. DE C.V.; Linked To: HD COLLECTION, S.A. DE C.V.; Linked To: HOTELITO DESCONOCIDO; Linked To: W&G ARQUITECTOS, S.A. DE C.V.).

Entity

1. W&G ARQUITECTOS, S.A. DE C.V., 16 de Septiembre No. 21, Col. Manuel Avila Camacho, Naucalpan, Edo. de Mex., Mexico; R.F.C. WAR050401H27 (Mexico) [SDNTK].

The listings for these individuals and entity now appear as follows.

Individuals

1. CAMACHO CAZARES, Jeniffer Beaney (a.k.a. CAMACHO CAZARES, Jennifer Beaney; a.k.a. CAMACHO CAZAREZ, Jeniffer Beaney), Sendero De Los Olmos 110, Zapopan, Jalisco 45129, Mexico; 4850 ch de la Cote-Saint-Luc, Montreal, Quebec H3W 2H2, Canada; Calle 12 de Diciembre #480, Colonia Chapalita, Zapopan, Jalisco, Mexico; DOB 01 Feb 1979; POB Ahome, Sinaloa, Mexico; C.U.R.P. CACJ790201MSLMZN03 (Mexico) (individual) [SDNTK] (Linked To: AG & CARLON, S.A. DE C.V.; Linked To: GRUPO DIJEMA, S.A. DE C.V.; Linked To: AGRICOLA BOREAL S.P.R. DE R.L.).

2. GONZALEZ VALENCIA, Abigael (a.k.a. GOMEZ FLORES, Luis Angel; a.k.a. GONZALEZ VALENCIA, Abigail; a.k.a. GONZALEZ VALENCIA, Luis Angel; a.k.a. TAK TOLEDO, Jonathan Paul; a.k.a. TAK TOLEDO, Paul Jonathan), Paseo Royal Country 5395–31, Fraccionamiento Royal Country, Zapopan, Jalisco, Mexico; Boulevard Puerta de Hierro 5687, Fraccionamiento Puerta de Hierro, Zapopan, Jalisco, Mexico; DOB 18 Oct 1972; alt. DOB 28 Oct 1979; POB Aguililla, Michoacan, Mexico; alt. POB Guadalajara, Jalisco, Mexico; alt. POB Apatzingan, Michoacan, Mexico; Gender Male; Passport JX755855 (Canada); C.U.R.P. GOVA721018HMNNLB07 (Mexico); alt. C.U.R.P. GOFL721018HJCMLS02 (Mexico); alt. C.U.R.P. GOVL721018HMNNLS08 (Mexico) (individual) [SDNTK] (Linked To: LOS CUINIS; Linked To: VALGO GRUPO DE INVERSION S.A. DE C.V.; Linked To: ASESORES TURISTICOS S.A. DE C.V.).

3. SANCHEZ CARLON, Diana Maria, Calle Ricardo Palma 2814, Colonia Prados Providencia, Guadalajara, Jalisco, Mexico; Calle 12 de Diciembre #480, Colonia Chapalita, Zapopan, Jalisco, Mexico; DOB 11 Feb 1979; POB Ahome, Sinaloa, Mexico; R.F.C. SACD–790211–KC2 (Mexico); C.U.R.P. SACD790211MSLNRN04 (Mexico) (individual) [SDNTK] (Linked To: AG & CARLON, S.A. DE C.V.; Linked To: AHOME REAL ESTATE, S.A. DE C.V.; Linked To: GRUPO DIJEMA, S.A. DE C.V.; Linked To: CONSULTORIA INTEGRAL LA FUENTE, SOCIEDAD CIVIL; Linked To: AGRICOLA BOREAL S.P.R. DE R.L.; Linked To: AGRICOLA TAVO S.P.R. DE R.L.; Linked To: DESARROLLO AGRICOLA ORGANICO S.P.R. DE R.L.; Linked To: DESARROLLO AGRICOLA VERDE DE SAYULA S.P.R. DE R.L.; Linked To: STEP LATINAMEDICA S.A. DE C.V.).

4. SANCHEZ CARLON, Silvia Romina, Calle Alberta No. 2166, Fraccionamiento Los Colomos, Guadalajara, Jalisco, Mexico; Av. Balam Kanche Mza. 30, Lote 002, Condominio Playa Car Fase II, Playa del Carmen, Quintana Roo 77710, Mexico; Calle 12 de Diciembre #480, Colonia Chapalita, Zapopan, Jalisco, Mexico; DOB 22 Dec 1986; POB Ahome, Sinaloa, Mexico; R.F.C. SACS–861222–PH0 (Mexico); C.U.R.P. SACS861222MSLNRL04 (Mexico) (individual) [SDNTK] (Linked To: AHOME REAL ESTATE, S.A. DE C.V.; Linked To: CONSULTORIA INTEGRAL LA FUENTE, SOCIEDAD CIVIL; Linked To: INTERCORP LEGOCA, S.A. DE C.V.; Linked To: LA FIRMA MIRANDA, S.A. DE C.V.; Linked To: XAMAN HA CENTER; Linked To: AGRICOLA BOREAL S.P.R. DE R.L.; Linked To: AGRICOLA TAVO S.P.R. DE R.L.; Linked To: DESARROLLO AGRICOLA ORGANICO S.P.R. DE R.L.; Linked To: DESARROLLO AGRICOLA VERDE DE SAYULA S.P.R. DE R.L.).

5. TORRES GONZALEZ, Fernando, Blvd. Puerta de Hierro # 5210, Piso 8–C, Puerta de Hierro, Zapopan, Jalisco 45116, Mexico; Calle Aldama 548, Interior 3, Tepatitlan de Morelos, Jalisco, Mexico; Calle Guadalupe 676, Fraccionamiento Guadalupe, Tepatitlan de Morelos, Jalisco, Mexico; Guayaquil numero 2600, Colonia Providencia, Guadalajara, Jalisco, Mexico; DOB 04 Jul 1970; POB Tepatitlan de Morelos, Jalisco, Mexico; C.U.R.P. TOGF700704HJCRNR06 (Mexico) (individual) [SDNTK] (Linked To: CIRCULO COMERCIAL TOTAL DE PRODUCTOS, S.A. DE C.V.; Linked To: HD COLLECTION, S.A. DE C.V.; Linked To: HOTELITO DESCONOCIDO; Linked To: W&G ARQUITECTOS, S.A. DE C.V.; Linked To: STATUS ADMINISTRATIVO S. DE R.L.).

Entity

1. W&G ARQUITECTOS, S.A. DE C.V. (a.k.a. W AND G ARQUITECTOS, S.A. DE C.V.), 16 de Septiembre No. 21, Col. Manuel Avila Camacho, Naucalpan, Edo. de Mex., Mexico; C. Sao Paulo No. 2435, Providencia, Guadalajara, Jalisco, Mexico; R.F.C. WAR050401H27 (Mexico) [SDNTK].

Dated: April 4, 2016.

Andrea M. Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–07965 Filed 4–6–16; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to the Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of seven individuals, eight entities, and one vessel whose property and interests in property have been unblocked pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) (21 U.S.C. 1901–1908, 8 U.S.C. 1182). Additionally, OFAC is publishing an update to the identifying information of one entity currently included in the list of Specially Designated Nationals and Blocked Persons (SDN List).

DATES: The unblocking and removal from the SDN List of the individuals, entities, and vessel identified in this notice whose property and interests in property were blocked pursuant to the Kingpin Act, is effective on April 4, 2016. Additionally, the update to the SDN List of the identifying information of the entity identified in this notice is also effective on April 4, 2016.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, Tel: (202) 622–2420.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site at *www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on demand service at (202) 622–0077.

Background

On December 3, 1999, the Kingpin Act was signed into law by the President of the United States. The Kingpin Act provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and to the benefits of trade and transactions involving U.S. persons and entities.

The Kingpin Act blocks all property and interests in property, subject to U.S.

jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury consults with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security when designating and blocking the property or interests in property, subject to U.S. jurisdiction, of persons or entities found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; and/or (3) playing a significant role in international narcotics trafficking.

On April 4, 2016, the Associate Director of the Office of Global Targeting removed from the SDN List the individuals, entities, and vessel listed below, whose property and interests in property were blocked pursuant to the Kingpin Act.

Individuals

1. JOUMAA, Mohamad Said (a.k.a. JOMAA, Mohamed Said), Lebanon; DOB 06 Apr 1977; POB Lala, Lebanon; Cedula No. 84076630 (Colombia) (individual) [SDNTK].

2. JOUMAA, Anwar Saied (a.k.a. JOMAA, Anmar; a.k.a. JOMAA, Anwar Said), Lebanon; POB Al Karouan, Lebanon; nationality Lebanon; Cedula No. 84072009 (Colombia); Passport 392065 (Panama) (individual) [SDNTK].

3. JOUMAA, Akram Saied (a.k.a. JOMAA YOUSSEF, Akram Said), Lebanon; DOB 07 Jun 1956; POB Al Karouan, Lebanon; nationality Lebanon; Passport 11869936 (Venezuela); RUC # 3–NT–1–6255 (Panama) (individual) [SDNTK].

4. SANCHEZ GONZALEZ, Ernesto, Av. Vallarta 3216, Colonia Vallarta San Jorge, Guadalajara, Jalisco, Mexico; DOB 03 Feb 1967; POB Tepatitlan de Morelos, Jalisco, Mexico; R.F.C. SAGE670203KH4 (Mexico); C.U.R.P. SAGE670203HJCNNR06 (Mexico) (individual) [SDNTK] (Linked To: GRUPO FRACSA, S.A. DE C.V.; Linked To: DBARDI, S.A. DE C.V.; Linked To: CONSTRUCTORA ACANTU, S.A. DE C.V.; Linked To: GRUPO ISAYAS, S.A. DE C.V.; Linked To: GRUPO INMOBILIARIO OCSA, S.A. DE C.V.).

5. SANCHEZ GONZALEZ, Fernando; DOB 24 Sep 1969; POB Jalisco, Mexico; R.F.C. SAGF690924JU7 (Mexico); C.U.R.P. SAGF690924HJCNNR09 (Mexico) (individual) [SDNTK] (Linked To: CONSTRUCTORA ACANTU, S.A. DE C.V.; Linked To: GRUPO INMOBILIARIO OCSA, S.A. DE C.V.; Linked To: INMOBILIARIA ASYSA, S.A. DE C.V.; Linked To: GRUPO ISAYAS, S.A. DE C.V.; Linked To: DBARDI, S.A. DE C.V.; Linked To: GRUPO FRACSA, S.A. DE C.V.).

6. SANCHEZ GONZALEZ, Javier, Av. Vallarta No. 3216, Guadalajara, Jalisco, Mexico; DOB 15 May 1971; POB Jalisco, Mexico; R.F.C. SAGJ7105156K9 (Mexico); C.U.R.P. SAGJ710515HJCNNV02 (Mexico) (individual) [SDNTK] (Linked To: INMOBILIARIA ASYSA, S.A. DE C.V.; Linked To: CARIATIDE GRUPO INMOBILIARIO, S.A. DE C.V.; Linked To: DBARDI, S.A. DE C.V.; Linked To: GRUPO FRACSA, S.A. DE C.V.).

7. SANCHEZ GONZALEZ, Jose, Av. Vallarta No. 3216, Col. Vallarta San Jorge, Guadalajara, Jalisco, Mexico; DOB 30 Sep 1962; POB Jalisco, Mexico; R.F.C. SAGJ620930MG0 (Mexico); C.U.R.P. SAGJ620930HJCNNS03 (Mexico) (individual) [SDNTK] (Linked To: GRUPO INSA, S.A. DE C.V.; Linked To: CONSTRUCTORA ACANTU, S.A. DE C.V.; Linked To: GRUPO INMOBILIARIO OCSA, S.A. DE C.V.; Linked To: INMOBILIARIA GORSA, S.A. DE C.V.; Linked To: INMOBILIARIA ASYSA, S.A. DE C.V.; Linked To: GRUPO ISAYAS, S.A. DE C.V.; Linked To: INMOBILIARIA NOVSA, S.A. DE C.V.; Linked To: DBARDI, S.A. DE C.V.; Linked To: GRUPO FRACSA, S.A. DE C.V.).

Entities

1. CONSTRUCTORA ACANTU, S.A. DE C.V., Av. Vallarta No. 3216, Col. Vallarta San Jorge, Guadalajara, Jalisco 44690, Mexico; R.F.C. CAC931015UC2 (Mexico) [SDNTK] (Linked To: SANCHEZ GONZALEZ, Ernesto; Linked To: SANCHEZ GONZALEZ, Jose; Linked To: SANCHEZ GONZALEZ, Fernando).

2. GRUPO INMOBILIARIO OCSA, S.A. DE C.V., Av. Vallarta No. 3216, Col. Vallarta San Jorge, Guadalajara, Jalisco 44690, Mexico; R.F.C. GIO050907D57 (Mexico) [SDNTK] (Linked To: SANCHEZ GONZALEZ, Jose; Linked To: SANCHEZ GONZALEZ, Fernando).

3. GRUPO INSA, S.A. DE C.V. (a.k.a. INSA: GRUPO INMOBILIARIO, S.A. DE C.V.), Av. Vallarta No. 3216, Col. Vallarta San Jorge, Guadalajara, Jalisco 44690, Mexico; R.F.C. GIN050207A76 (Mexico) [SDNTK] (Linked To: SANCHEZ GONZALEZ, Jose).

4. GRUPO ISAYAS, S.A. DE C.V., Av. Vallarta No. 3216, Col. Vallarta San Jorge, Guadalajara, Jalisco 44690, Mexico; R.F.C. GIS040527T58 (Mexico) [SDNTK] (Linked To: SANCHEZ GONZALEZ, Jose; Linked To: SANCHEZ GONZALEZ, Fernando).

5. INMOBILIARIA ASYSA, S.A. DE C.V., Av. Vallarta No. 3216, Col. Vallarta San Jorge, Guadalajara, Jalisco, Mexico; R.F.C. IAS050907A14 (Mexico) [SDNTK] (Linked To: SANCHEZ GONZALEZ, Jose; Linked To: SANCHEZ GONZALEZ, Fernando; Linked To: SANCHEZ GONZALEZ, Javier).

6. INMOBILIARIA GORSA, S.A. DE C.V., Av. Vallarta No. 3216, Col. Vallarta San Jorge, Guadalajara, Jalisco 44690, Mexico; R.F.C. IGO060407J63 (Mexico) [SDNTK] (Linked To: SANCHEZ GONZALEZ, Jose).

7. INMOBILIARIA NOVSA, S.A. DE C.V., Av. Vallarta No. 3216, Col. Vallarta San Jorge, Guadalajara, Jalisco 44690, Mexico; R.F.C. GIN050623D21 (Mexico) [SDNTK] (Linked To: SANCHEZ GONZALEZ, Jose).

8. CAESAR'S PARK HOTEL (a.k.a. CEASAR'S PARK HOTEL; a.k.a. CEASERS PARK HOTEL), Madame Curie St., Beirut, Lebanon [SDNTK].

Vessel

1. CITY OF TOKYO (3ELV6) Panama flag; Vessel Registration Identification IMO 8709145; MMSI 636016488 (vessel) [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU–MERHI LINES SAL).

Additionally, on April 4, 2016, the Associate Director of the Office of Global Targeting updated the SDN List for one entity listed below, whose property and interests in property continue to be blocked pursuant to the Kingpin Act.

1. CARIATIDE GRUPO INMOBILIARIO, S.A. DE C.V., Av. Vallarta No. 3216, Col. Vallarta San Jorge, Guadalajara, Jalisco 44690, Mexico; R.F.C. CGI0501197ST (Mexico) [SDNTK]. (Linked to SANCHEZ GONZALEZ, Javier)

–to–

CARIATIDE GRUPO INMOBILIARIO, S.A. DE C.V., Av. Vallarta No. 3216, Col. Vallarta San Jorge, Guadalajara, Jalisco 44690, Mexico; R.F.C. CGI0501197ST (Mexico) [SDNTK].

Dated: April 4, 2016.

Gregory T. Gatjanis,

Associate Director, Office of Global Targeting, Office of Foreign Assets Control.

[FR Doc. 2016–07980 Filed 4–6–16; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Interest Rate Paid on Cash Deposited To Secure U.S. Immigration and Customs Enforcement Immigration Bonds

AGENCY: Departmental Offices, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning April 1, 2016, and ending on June 30, 2016, the U.S. Immigration and Customs Enforcement Immigration Bond interest rate is 0.30 per centum per annum.

ADDRESSES: Comments or inquiries may be mailed to Sam Doak, Reporting Team Leader, Federal Borrowings Branch, Division of Accounting Operations, Office of Public Debt Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia, 26106–1328. You can download this notice at the following Internet addresses: *http://www.treasury.gov* or *http://www.federalregister.gov.*

DATES: Effective April 1, 2016 to June 30, 2016.

FOR FURTHER INFORMATION CONTACT: Adam Charlton, Manager, Federal Borrowings Branch, Office of Public Debt Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia, 26106–1328, (304) 480–5248; Sam Doak, Reporting Team Leader, Federal Borrowings Branch, Division of Accounting Operations, Office of Public Debt Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia, 26106–1328, (304) 480–5117.

SUPPLEMENTARY INFORMATION: Federal law requires that interest payments on cash deposited to secure immigration bonds shall be "at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum." 8 U.S.C. 1363(a). Related Federal regulations state that "Interest on cash deposited to secure immigration bonds will be at the rate as determined by the Secretary of the Treasury, but in no case will exceed 3 per centum per annum or be less than zero." 8 CFR 293.2. Treasury has determined that interest on the bonds will vary quarterly and will accrue during each calendar quarter at a rate equal to the lesser of the average of the bond equivalent rates on 91-day Treasury bills auctioned during the preceding calendar quarter, or 3 per centum per annum, but in no case less than zero. [FR Doc. 2015–18545] In addition to this Notice, Treasury posts the current quarterly rate in Table 2b—Interest Rates for Specific Legislation on the TreasuryDirect Web site.

Gary Grippo,

Deputy Assistant Secretary for Public Finance.

[FR Doc. 2016–08064 Filed 4–6–16; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

Commission on Care Meeting Notice

ACTION: Notice of meeting.

In accordance with the Federal Advisory Committee Act, 5 U.S.C., App. 2, the Commission on Care gives notice that it will meet on Monday, April 18, 2016, and Tuesday, April 19, 2016, at the J.W. Marriott, Jr. ASAE Conference Center, 1575 I St. NW., Washington, DC 20005. The meeting will convene at 8:30 a.m. and end by 6:00 p.m. (EDT) on Monday, April 18, 2016. The meeting will convene at 8:30 a.m. and end by 4:00 p.m. (EDT) on Tuesday, April 19, 2016. The meetings are open to the public.

The purpose of the Commission, as described in section 202 of the Veterans Access, Choice, and Accountability Act of 2014, is to examine the access of veterans to health care from the Department of Veterans Affairs and strategically examine how best to organize the Veterans Health Administration, locate health care resources, and deliver health care to veterans during the next 20 years.

Time will be allocated at this meeting for receiving oral statements from the public on Tuesday, April 19th from 11:00 a.m. to 12:00 p.m. (EDT). Statements will be limited to five minutes and, due to time constraints, no more than ten individuals will be permitted to speak. Those interested in making oral statements, must register their intent to do so and provide written copies of their proposed statements to the Designated Federal Officer (DFO) no later than 5:00 p.m. (EDT). on Wednesday, April 15, 2016. Speaking slots will be confirmed on a first come, first serve basis. The public may also submit written statements at any time for the Commission's review to *commissiononcare@va.gov.*

Any members of the public wishing to attend the meeting may register their intentions by emailing the DFO, John Goodrich, at *john.goodrich@va.gov.* Remote attendees joining by telephone must email Mr. Goodrich by 12:00 p.m. (EDT) on Friday, April 15, 2016, to request dial-in information.

Date: April 1, 2016.

John Goodrich,

Designated Federal Officer, Commission on Care.

[FR Doc. 2016–07919 Filed 4–6–16; 8:45 am]

BILLING CODE 8320–01–P

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Species Status for the Big Sandy Crayfish and Endangered Species Status for the Guyandotte River Crayfish; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R5–ES–2015–0015; 4500030113]

RIN 1018–BA85

Endangered and Threatened Wildlife and Plants; Threatened Species Status for the Big Sandy Crayfish and Endangered Species Status for the Guyandotte River Crayfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened species status under the Endangered Species Act of 1973 (Act), as amended, for the Big Sandy crayfish (*Cambarus callainus*), a freshwater crustacean from Kentucky, Virginia, and West Virginia, and endangered status for the Guyandotte River crayfish (*C. veteranus*), a freshwater crustacean from West Virginia. This rule adds these species to the Federal List of Endangered and Threatened Wildlife.

DATES: This rule is effective May 9, 2016.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* under Docket No. FWS–R5–ES–2015–0015 and at our Web site at: *http://www.fws.gov/northeast/crayfish/*. Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov*. Comments, materials, and documentation that we considered in this rulemaking will be available by appointment, during normal business hours, at: U.S. Fish and Wildlife Service, Northeast Regional Office, 300 Westgate Center Drive, Hadley, MA 01035; telephone 413–253–8615; facsimile 413–253–8482.

FOR FURTHER INFORMATION CONTACT: Martin Miller, Chief, Endangered Species, U.S. Fish and Wildlife Service, Northeast Regional Office, 300 Westgate Center Drive, Hadley, MA 01035; telephone 413–253–8615; facsimile 413–253–8482. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act, a species may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule.

This rule makes final the listing of the Big Sandy crayfish (*Cambarus callainus*) as a threatened species and the Guyandotte River crayfish (*C. veteranus*) as an endangered species.

The basis for our action. Under the Endangered Species Act, we may determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that the Guyandotte River crayfish is in danger of extinction (*i.e.*, is endangered) and that the Big Sandy crayfish is likely to become in endangered within the foreseeable future (*i.e.*, is threatened) due primarily to the threats of land-disturbing activities that increase erosion and sedimentation, which degrade the stream habitat required by both species (Factor A), and of the effects of small population size (Factor E).

Peer review and public comment. We sought comments from independent specialists to ensure that our designation is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers and the public to comment on our listing proposal during two comment periods, for a total of 90 days. We considered all comments and information we received during the comment periods.

Previous Federal Actions

Please refer to the proposed listing rule for the Big Sandy crayfish and the Guyandotte River crayfish (80 FR 18710; April 7, 2015) for a detailed description of previous Federal actions concerning these species.

Summary of Comments and Recommendations

In the proposed rule published on April 7, 2015 (80 FR 18710), we requested that all interested parties submit written comments on the proposal by June 8, 2015. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. A newspaper notice inviting general public comment was published in the Lexington Herald on April 9, 2015, and in the Coalfield Progress and Charleston Gazette on April 10, 2015. We did not receive any requests for a public hearing. On December 15, 2015 (80 FR 77598), we reopened the public comment period for an additional 30 days to make the results of two 2015 summer surveys of the species available for public review and comment.

During the initial 60-day public comment period (April 7, 2015, to June 8, 2015) and the reopened 30-day comment period (December 15, 2015, to January 14, 2016), we received public comments from 42,026 individuals or organizations. Of these, 41,974 were form letters submitted by individuals associated with several nongovernmental organizations (NGOs) that expressed support for the listing of the two species but did not provide any new or substantive information. One NGO also submitted a separate comment letter on behalf of itself and 26 other NGOs. This comment letter was supportive of listing the Big Sandy and Guyandotte River crayfishes and generally reiterated information from the proposed rule. We also received five comments from government agencies. Two were generally supportive of the proposed listing, one was opposed, and two did not offer an opinion.

We received 46 comments from individuals, including peer reviewers and various industry groups or companies. Of these 46, 18 were supportive of listing the two species, 14 were opposed, and 7 did not offer an opinion. The remaining seven public commenters submitted comments on topics related to other issues not specific to the listing proposal, such as general criticism of the Act (16 U.S.C. 1531 *et seq.*) or of coal mining. Because these seven comments are not substantive regarding the proposed listing rule, we do not address them further. Comments regarding recommendations for research or conservation actions are outside the scope of this final listing rule, but such recommended actions will be considered during the recovery planning process. All substantive information provided during the comment periods is summarized below and has either been incorporated directly into this final determination or is addressed in the response to comments below.

Comments From Peer Reviewers

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from seven knowledgeable individuals with expertise in the field of astacology (the study of crayfishes) and stream ecology. We received individual responses from six of these peer reviewers.

In general, the peer reviewers all commented that we had thoroughly and accurately summarized the best available scientific data. We incorporated revisions into the final rule as a result of the peer reviewer comments. Any substantive comments are discussed below.

(1) *Comment:* We received conflicting comments from five of the six peer reviewers about the sufficiency of the data from which we determined the population status and trends for the Big Sandy or Guyandotte River crayfishes. Two of the reviewers indicated that additional quantitative evidence was needed to support our conclusions regarding declines in range, population, or abundance for the Big Sandy crayfish, including the historical presence of the species in the lower Levisa Fork and Tug Fork basins. In contrast to the concern regarding a lack of data, a third reviewer commented that the proposed rule was based on more quantitative data than are available for most crayfish species, which supports a fourth reviewer's conclusion that the recent survey data were sufficient to suggest declining ranges and possibly abundances for both species. Finally, a fifth reviewer observed that, while data to inform precise population trends for these (and most other) crayfish species are lacking, the decline in population and range for both the Big Sandy and Guyandotte River crayfishes was undebatable.

Our Response: The Act requires that the Service make listing determinations based solely on the best scientific and commercial data available. When we published the proposed rule on April 7, 2015 (80 FR 18710), we relied on the best quantitative and qualitative data available at that time to determine the status of each species, including previous crayfish surveys and habitat assessments, range maps, genetic evidence, analysis of museum specimens, and expert scientific opinion. As we discussed in the proposed rule, the available scientific data indicated that the range of each species has been reduced and that most existing subpopulations of these species had low abundance.

Since publishing the proposed rule, the Service funded additional crayfish surveys in the Upper Guyandotte and Big Sandy River basins to better inform our final analysis. The results of these new crayfish surveys (see Loughman 2015a, entire; Loughman 2015b, entire) generally confirmed our previous analysis of each species' status and range, and are discussed in more detail under Summary of Biological Status and Threats, below. The surveys found two new stream occurrences (four sites) for the Big Sandy crayfish in the lower Tug Fork basin (Loughman 2015a, pp. 10–17). These data, along with the 2009 confirmation of the species in the lower Levisa Fork, support our conclusion that the Big Sandy crayfish historically occupied suitable habitat in the lower portions of these river basins. As discussed in the proposed rule, other lines of evidence that the species once occupied a much greater range in the lower reaches of the Levisa and Tug Fork basins than it currently does include: (1) Genetic evidence that the range of the species within the Big Sandy basin was once much larger than it is presently; (2) the opinion of crayfish experts who have surveyed for the species; and (3) the analogous range reduction of the closely related Guyandotte River crayfish, which is subject to similar environmental stressors and threats as the Big Sandy crayfish.

Additionally, the new occurrence locations in the lower Tug Fork, specifically the three Pigeon Creek sites, indicate an increase in the Big Sandy crayfish's redundancy above what was known when we published the proposed rule. This increase in redundancy also contributes to the species' overall resiliency and is discussed under Summary of Biological Status and Threats, below.

(2) *Comment:* One peer reviewer commented that the existing scientific data may have been insufficient to provide for an accurate assessment of the habitat preferences of the Big Sandy crayfish. This reviewer noted that our cited sources consisted of status and distribution surveys that were not designed to determine specific microhabitats used by the species among the suite of all habitats present. However, this reviewer further stated that the available information does likely support that the Big Sandy crayfish is associated with unembedded slab boulders.

Our Response: As we described in the proposed rule, there is consensus among crayfish experts that have surveyed for the Big Sandy and Guyandotte River crayfishes that these species are naturally associated with the faster-flowing sections of streams and rivers because these sections maintain an abundance of unembedded slab boulders that provide shelter for the species. Following publication of the proposed rule, the Service funded additional crayfish surveys (224 individual survey sites) throughout the ranges of both species (see Loughman 2015a, entire; Loughman 2015b, entire). All Big Sandy and Guyandotte River crayfish collected during these surveys were associated with faster-flowing waters in streams with unembedded substrates and slab boulders. At sites where these habitat conditions were degraded or absent, more generalist crayfish species (*e.g.,* the spiny stream crayfish (*Orconectes cristavarius*)) were dominant and were found utilizing other instream habitats including woody debris snags and leaf packs. Neither the Big Sandy crayfish nor Guyandotte River crayfish was found associated with woody debris or leaf packs.

(3) Comment: One peer reviewer questioned our conclusion that the Flannagan Reservoir posed a barrier that prevented Big Sandy crayfish movement between the Pound River and the Cranes Nest River subpopulations. The reviewer correctly noted that the Flannagan Reservoir was not sampled for the Big Sandy crayfish. The reviewer referenced a scientific study on a different species of stream crayfish native to Arkansas and Missouri that had been found to inhabit a reservoir in Missouri as evidence that the Flannagan Reservoir might not be a barrier to the Big Sandy crayfish.

Our Response: We are not aware of any surveys for the Big Sandy crayfish in the Flannagan Reservoir, but because reservoirs generally lack flowing water and accumulate bottom sediments at an accelerated rate (Baxter 1997, p. 259; Appalachian Power Company 2008, pp. 28–33), it is reasonable to conclude that the bottom substrate in the Flannagan Reservoir (and the lower reaches of the Pound and Cranes Nest Rivers, which form arms of the reservoir) lacks unembedded slab boulders and is therefore likely not suitable habitat for the Big Sandy crayfish. However, because no physical barrier separates the subpopulations of Big Sandy crayfish in the Pound River and Cranes Nest Rivers, we do not rule out that these subpopulations may interact with each other, perhaps seasonally when reservoir levels are lowered and the lower portions of these rivers temporarily assume more riverine characteristics. However, the best available data support our ongoing conclusions that the Flannagan Dam poses a barrier between the Pound River and Cranes Nest River subpopulations and the wider Russell Fork and Levisa Fork populations because it physically separates areas of suitable habitat, and that habitat fragmentation is a threat to the species.

(4) *Comment:* Several peer reviewers commented on other potential threats to the Big Sandy and Guyandotte River crayfishes and suggested that we discuss the effects of climate change and dams on the two species.

Our Response: We agree that the potential effects of dams and climate change on the two species warrant further analyses; we have incorporated these below, under Factors A and E, respectively, in this final rule.

(5) *Comment:* One peer reviewer examined the genetic data in GenBank® (a database of genetic sequence data maintained by the National Center for Biotechnology Information; see *http://www.ncbi.nlm.nih.gov/genbank/*) and commented that the available molecular evidence suggests that the Big Sandy and Guyandotte River crayfishes are distinct taxonomic entities that are only distantly related to each other. The reviewer also commented that additional genetic analysis of coexisting *Cambarus* crayfish species in the region is needed to better understand their relationships.

Our Response: We appreciate this additional independent analysis that supports our conclusion that the Big Sandy and Guyandotte River crayfishes are separate taxonomic entities. And while we also agree that additional genetic research on the native crayfish of this region would help inform future conservation efforts, we must base our listing decision on the best available scientific data.

(6) *Comment:* One peer reviewer suggested several potential new lines of inquiry or alternative methods of analyzing or presenting existing data that would provide additional support for our proposed decision to list the Big Sandy and Guyandotte River crayfishes. For example, the commenter suggested we use probabilistic analyses of State water quality data to better infer the degree of impairment across the species' ranges.

Our Response: We appreciate the reviewer's suggestions and recognize that alternative analyses could be used to assess the primary and contributing threats affecting the Big Sandy and Guyandotte River crayfishes. However, the Act requires that the Service make listing determinations based solely on the best scientific and commercial data available, and the analyses suggested by the reviewer would require data that are not available. When we published the proposed rule on April 7, 2015 (80 FR 18710), we relied on the best quantitative and qualitative data available at that time to determine the status of each species. And while there may be other methods for analyzing the existing data, we concluded, and the six scientific peer reviewers (including this reviewer) generally concurred, that our analysis was sufficient to make a listing determination for these two species. We welcome any new data the reviewer can provide and may consider his suggestions during the recovery planning process to help inform potential conservation measures.

Comments From Federal Agencies

(7) Comment: One Federal agency stated that it works with landowners on a voluntary basis to implement conservation measures, some of which may provide direct and indirect benefits to the Big Sandy and Guyandotte River crayfishes or their habitats. In order to continue their successful conservation partnerships with private landowners, the Federal agency expressed a willingness to work with the Service to develop mutually acceptable avoidance measures and practices that will benefit these species.

Our Response: The Service appreciates the work of the Federal agency and looks forward to working with them as conservation partners regarding the Big Sandy and Guyandotte River crayfishes.

Comments From States

(8) Comment: The Kentucky Department of Fish and Wildlife Resources (KDFWR) commented that it is difficult to determine Big Sandy crayfish population changes based on the supporting documents and survey information. The agency also commented that the species' present distribution appears to differ from its historical distribution, but that it is difficult to determine the magnitude and implication of these changes. The KDFWR also concurred that the available information indicates that physical habitat quality is correlated with the presence or absence of the Big Sandy crayfish.

Our Response: We appreciate the KDFWR's review and comments on the proposed rule and acknowledge the challenges in analyzing the best available data to determine the status of the Big Sandy crayfish (please see our response to Comment 1, above). We look forward to working with the KDFWR as a conservation partner as we develop a recovery strategy for the species.

(9) Comment: The Virginia Department of Game and Inland Fisheries (VDGIF) commented that its data on the Big Sandy crayfish support our determination to list the species as endangered. The agency confirmed that in Virginia, the species is extant in at least 10 sites in the Russell Fork watershed and 1 site in the Levisa Fork watershed. The VDGIF also provided information on an occurrence location within the Russell Fork watershed that we were unaware of and noted two locations in the upper Levisa Fork watershed from which the species appears to have been extirpated. However, the agency does not believe the addition of the new occurrence location affects the listing proposal.

Our Response: We appreciate the VDGIF's additional data on Big Sandy crayfish occurrence locations in Virginia, and we have incorporated this information into this final rule. We look forward to continuing our conservation partnership with the VDGIF as we develop a recovery strategy for the species.

(10) Comment: The VDGIF commented that while recent survey data describe Big Sandy crayfish distribution in the Commonwealth, data on population sizes and trends do not exist. They noted that while Big Sandy crayfish surveys conducted in 2009 (see Thoma 2009b) were not necessarily designed to determine the species' population numbers, the agency interpreted the results as evidence that the Big Sandy crayfish subpopulations in the Russell Fork, Indian Creek, and Dismal Creek appeared to be stable and reproducing, and the subpopulations in the Pound River and Cranes Nest River appeared smaller and did not appear to be stable.

Our Response: As we indicated in the proposed rule, we agree that quantitative data on which to base population estimates for this species are sparse, and we concur that, based on the best available data, the species' health appears to vary at different occurrence locations throughout its range. Following publication of the proposed rule, the Service funded additional crayfish surveys in the Big Sandy River basin to better inform our final analysis (Loughman 2015a, entire). These new data confirmed that the Big Sandy crayfish is generally present throughout the Russell Fork basin, with eight of the nine surveyed stream systems supporting the species. However, in the upper Levisa Fork basin, six streams were surveyed, and the species was confirmed to be present in only one. The 2015 data also indicated that the species is notably absent from many other streams within its range, especially in the lower Levisa Fork and Tug Fork basins.

Additionally, in January 2016, the VDGIF provided the Service with 12 Big Sandy crayfish survey and relocation reports for work conducted in the Russell Fork and upper Levisa Fork watersheds in Virginia between 2009 and 2014. These crayfish survey and relocation efforts were associated with infrastructure projects (*i.e.*, pipeline stream crossings, bridge replacements, culvert replacement) and generally confirmed the species' presence in streams for which we already had occurrence records. Because most of these efforts were intended to remove all Big Sandy crayfish from pending construction areas, the raw numbers of individual crayfish captured provides some indication of the species' population densities and supports our conclusion (80 FR 18710, pp. 18719–18720) that where suitable habitat conditions exist, about 20 to 25 individual Big Sandy (or Guyandotte River) crayfish should be present at a survey location. The numbers of individual crayfish captured at the Russell Fork sites surveyed (n=22) ranged from 0 to 99, with a mean of 21.7 Big Sandy crayfish per site.

(11) Comment: The VDGIF commented that the available evidence indicates that the Russell Fork and Levisa Fork subpopulations of Big Sandy crayfish are genetically distinct and may warrant conservation as separate management units.

Our Response: We agree that the best available scientific data indicate there are genetic distinctions between the various subpopulations of the Big Sandy crayfish. The potential species management implications of these genetic differences will be discussed during the recovery planning process.

(12) Comment: The VDGIF commented that a female crayfish with instars was found during the month of May, which could indicate either that late-breeding females from the previous mating season overwinter instars longer than previously reported or that the species can spawn earlier in the year than previously reported.

Our Response: We appreciate this new information. While this observation does not alter our listing determination, it may be useful in developing the species' recovery plan and other conservation measures.

(13) Comment: The VDGIF provided comments related to critical habitat and future recovery options for the Big Sandy crayfish.

Our Response: We appreciate the VDGIF's interest in contributing to the conservation of the Big Sandy crayfish. However, these comments related to critical habitat and recovery planning are outside the scope of this final listing rule. We will consider these comments when developing a proposed critical habitat designation, and we look forward to working with the agency as we develop a recovery plan for the species.

(14) Comment: The West Virginia Department of Environmental Protection, Division of Mining and Reclamation (WVDEP/DMR) concurred with our conclusion that both species have reduced ranges and generally low abundances at existing occurrence locations, but the agency recommended the two species not be listed at this time. The WVDEP/DMR requested that additional time be afforded to research existing museum, academic, and government crayfish collections to verify the distribution and abundance of the two species within their described ranges.

Our Response: We appreciate the WVDEP/DMR's comments on the proposed listing rule and their request that additional time be afforded to conduct more research. However, section 4(b)(6)(A) of the Act provides a statutory timeline for making listing determinations: within 1 year from the date a proposed regulation is published, the Secretary will either publish a final regulation, provide notice that the proposed regulation is being withdrawn, or provide notice that the 1-year period is being extended for up to 6 months because of substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination. In addition to the statutory time limitations described above, the Act requires that the Secretary make listing determinations based solely on the best scientific and commercial data available.

When we published the April 7, 2015, proposed rule, we relied on the best scientific and commercial data available at that time to determine the distribution and abundance of the Big Sandy and the Guyandotte River crayfishes. As described in the proposed rule, these data included a Service-funded biological status review of the two species, which included an examination of records and vouchered specimens in all known crayfish collections from the region. These collections are held by the United States National Museum, Illinois Natural History Survey, Eastern Kentucky University, Ohio State University, West Liberty University, and the Virginia Department of Game and Inland Fisheries. The only relevant new data we received during the public comment period were three new stream occurrence records, two for the Big Sandy crayfish (Pigeon Creek and lower Tug Fork mainstem) and one for the Guyandotte River crayfish (Clear Fork). We used this information in developing this final rule. We received no other substantive information regarding the sufficiency or accuracy of the available data and note that the six scientific peer reviewers indicated that we conducted a thorough review and analysis of the best available data. There is no substantial disagreement regarding the sufficiency or accuracy of the available data to indicate the need for a 6-month extension.

(15) Comment: The WVDEP/DMR expressed concern that only three Big Sandy crayfish survey sites were identified in the West Virginia portion of the species' range and that this indicated insufficient information regarding the species' status in West Virginia.

Our Response: As we indicated in Table 2b in the proposed rule (80 FR 18710, p. 18721), between 2006 and 2014, 25 individual sites in West Virginia were surveyed for the Big Sandy crayfish. Of these, the species was confirmed at four of these sites. During the summer of 2015, the Service funded additional survey work that included 32 sites in West Virginia. The Big Sandy crayfish was confirmed at 11 of these sites. These new data provided the first occurrence records for the species in the lower Tug Fork and confirmed the species' presence in 7 of 17 stream systems in the Tug Fork basin (this includes streams in both Kentucky and West Virginia). This information has been incorporated into this final rule.

(16) Comment: The WVDEP/DMR disagreed with our inclusion of water quality degradation, specifically high conductivity levels, as one of the greatest threats to the two crayfish species. The agency contends that the evidence provided in the proposed rule indicates that bottom sedimentation is the primary threat to the species and that because of the marine ancestry of the taxonomic order Decapoda (which includes crayfish), the Big Sandy and Guyandotte River crayfishes are not likely sensitive to elevated conductivity levels.

Our Response: As we indicated in the proposed rule, the best available scientific data indicate that degradation of stream habitat from sedimentation and substrate embeddedness is the primary threat to the Big Sandy and Guyandotte River crayfishes. However, the best available data also suggest that water quality degradation is likely a contributing threat to these species.

The Service funded new crayfish surveys during the summer of 2015 that compared crayfish presence and abundance (as catch per unit effort

(CPUE)) with various habitat parameters, including conductivity levels (Loughman 2015a, entire; Loughman 2015b, entire). The results of both of these studies clearly demonstrated that high instream habitat quality, as measured by the Qualitative Habitat Evaluation Index (QHEI), is positively correlated with the presence of both species. While Loughman found a statistical relationship between high conductivity levels and the absence of Guyandotte River crayfish, the data for the Big Sandy crayfish did not indicate such a relationship (Loughman 2015a, entire; Loughman 2015b, entire). However, studies of a different crayfish species did indicate that high conductivity levels were harmful, especially during certain crayfish life stages (see "Water Quality Degradation," under the *Factor A* discussion in Summary of Factors Affecting the Species).

(17) Comment: The West Virginia Division of Natural Resources (WVDNR), which funded some of the survey work referenced in the proposed rule, indicated that they have no additional data regarding the status of the two species and generally concurred with our analysis and conclusions that the existing data indicate that the ranges of both the Big Sandy and Guyandotte River crayfishes have decreased from their historical distributions, that existing populations are small and vulnerable, and that habitat degradation continues to affect both species. Based on the available data, the WVDNR concurred that listing of the two species is warranted.

Our Response: We appreciate the WVDNR's contribution toward assessing the status of the two species within West Virginia and their comments on the proposed rule. We look forward to continuing our conservation partnership with the WVDNR as we develop a recovery strategy for these species.

Comments From the Public

(18) Comment: Several commenters requested that the 60-day public comment period be extended by 60 to 180 days to provide additional time to: (1) Review the available data; (2) seek new data; (3) examine the data in light of the taxonomic split of *Cambarus callainus* from *C. veteranus* or; (4) prepare comments.

Our Response: The 60-day comment period for the April 7, 2015, proposed rule closed on June 8, 2015. At that time, we declined to extend the comment period because we intended to reopen the comment period after the results of new surveys became available. During the summer of 2015, the Service funded those surveys, as discussed above. On December 15, 2015, the results of these survey efforts were made available to the public and the public comment period was reopened for 30 days (80 FR 77598) to afford the public an opportunity to comment on these survey results and to submit any new data or analysis that became available since the close of the initial comment period. This reopened comment period closed on January 14, 2016. We received six new comments during the reopened comment period, including substantive information that has been incorporated into this final rule.

Because the two public comment periods totaled 90 days and because we received few comments during the reopened comment period, we believe that there has been sufficient time for the public to review and provide comments on the proposed rule and supporting information. While we welcome new information about these species at any time, as previously stated, the Service must make listing determinations based solely on the best available data and within certain statutory timeframes (see our response to Comment 14).

(19) Comment: Several commenters expressed concern that we published the proposed listing rule prior to submitting it for peer review or that we did not seek input from the State wildlife agencies.

Our Response: In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited the expert opinion of seven independent specialists regarding the pertinent scientific or commercial data and assumptions related to the proposed listing of the Big Sandy and Guyandotte River crayfishes. Our policy provides that this process take place during the public comment period on the proposed rule.

Prior to drafting the proposed rule, we did seek input from the State wildlife or environmental resource agencies in Kentucky, Virginia, and West Virginia. We also submitted notice of the proposed rule to the affected States in accordance with the Act. In response, we received substantive data and/or comments from the Kentucky Division of Water (KDOW), the VDGIF, the WVDEP/DMR, and the WVDNR. We addressed the agency comments (see *Comments from States,* above) and incorporated them into this rule where appropriate. As we discussed above, these comments generally supported our analysis in the proposed rule. We note also that much of the recent survey work for the Big Sandy and Guyandotte River crayfishes (see Thoma 2009b; Thoma 2010; Loughman and Welsh 2010) was funded by several of these same State agencies.

(20) Comment: Several commenters stated that we should withdraw or postpone our listing decision or that we should make a "warranted but precluded" finding until more data are available upon which to base our listing decisions. Some commenters stated that the Service's timeline for developing the listing rule was governed by the settlement agreement with the Center for Biological Diversity rather than sufficient study or data development.

Our Response: The Act requires that we make listing determinations based solely on the best scientific and commercial data available. As we discussed in response to Comment 1, above, when we published the proposed rule on April 7, 2015 (80 FR 18710), we relied on the best quantitative and qualitative data available at that time. Furthermore, as we discussed previously, the Act requires us to, within 1 year after the date the proposed rule is published, either publish a final regulation, provide notice that the proposed regulation is being withdrawn, or provide notice that the 1-year period is being extended for up to 6 months because of substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination. While some commenters disagreed with our interpretation of the best available data or our conclusions, we received no new substantive data that would indicate the listing proposal should be withdrawn or that substantial disagreement existed regarding the sufficiency or accuracy of the available data.

A "warranted but precluded" finding means the Service has enough information to list a species as endangered or threatened, but is precluded from undertaking the rulemaking process because of other actions for species with higher conservation priorities. Given the best available scientific data that indicated the Guyandotte River crayfish was known only from a single location and was subject to ongoing threats to the species' habitat and to individual crayfish, the Guyandotte River crayfish was the Service's highest priority at the time. In addition, the data for the Big Sandy crayfish indicated that it too was in decline and facing threats similar to those faced by the Guyandotte River crayfish. Therefore, we appropriately prioritized the proposed listing of both species. These determinations were within the Service's discretion.

(21) Comment: Several commenters expressed concern that if the Big Sandy

and Guyandotte River crayfishes are listed, various extractive industries in the region would be negatively affected or off-road vehicle (ORV) trail development would be restricted. The commenters believe listing of either or both species would cause economic harm to the industries or local communities.

Our Response: While we appreciate the concerns about the possible economic impact of potential management actions that may result from listing the Big Sandy and Guyandotte River crayfishes, the Act does not allow us to factor those concerns into our listing decision. Rather, listing decisions under the Act must be made solely on the basis of the best scientific and commercial data and in consideration of the five factors in section 4(a)(1) of the Act. That said, we are committed to working with industry organizations, State and Federal agencies, local communities, ORV groups, and other stakeholders to develop protections for the two crayfish species and their habitats while allowing continued use of the region's resources.

(22) Comment: One commenter expressed that all of the information the Service relied upon in making the proposed listing should be made readily available (*i.e.*, in electronic form) to the public.

Our Response: When we published the proposed rule and opened the public comment period, we included an electronic version of our reference list with citations for all of the data we relied upon in drafting the proposed rule. In the proposed rule, we also provided contact information and instructions to allow the public to inspect the supporting documentation at the U.S. Fish and Wildlife Service, Northeast Regional Office. We note that we received no requests to review the supporting documentation.

(23) Comment: Several commenters stated that we did not articulate the needed conservation and recovery measures for the two species or how listing either species would add to existing conservation efforts.

Our Response: We appreciate the commenters' concern for the conservation and recovery of these species. As we discussed under the heading *Available Conservation Measures* in the April 7, 2015, proposed rule (80 FR 18710, p. 18736), the general conservation benefits of listing include increased public awareness; conservation by Federal, State, Tribal, and local agencies and private organizations; and prohibitions of certain practices. The Act also encourages cooperation between stakeholders and calls for recovery actions for listed species. However, articulating these measures or describing how listing will aid conservation of the species is not a standard for listing a species under the Act, but will be developed through the recovery planning process for both species.

(24) Comment: Several commenters claimed that we did not adequately consider the positive effects existing Federal and State environmental laws (*e.g.*, Clean Water Act (CWA; 33 U.S.C. 1251 *et seq.*), Surface Mining Control and Reclamation Act of 1977 (SMCRA; 30 U.S.C. 1201 *et seq.*), and others), regulations, and best management practices (BMPs) have had on the two species and stated that because of the protections afforded by these regulatory mechanisms, listing under the Act is not necessary.

Our Response: We agree that the various Federal and State environmental regulations and BMPs, when fully complied with and enforced, have resulted in improvements in water and habitat quality when compared to conditions prior to enactment of these laws. However, as we described in the April 7, 2015, proposed rule (80 FR 18710, pp. 18724–18729, 18732) and this final rule, State water quality reports, published scientific articles, and expert opinion indicate that the aquatic habitat required by the Big Sandy and Guyandotte River crayfishes continues to be degraded despite these regulatory mechanisms. The best available scientific data demonstrate that the range of the Guyandotte River crayfish has declined since enactment of the CWA, the SMCRA, and the various other regulations and BMPs. And although we have less temporal data for the Big Sandy crayfish, the genetic data and expert opinion strongly suggest that this pattern of range reduction is similar for that species. We also emphasize that the threats to the Big Sandy and Guyandotte River crayfishes that we discuss under *Factor E*, below, are not addressed by any existing regulatory mechanism. Therefore, we conclude that the best available data indicate that existing regulations, by themselves, have not been sufficient to prevent the continued degradation of the habitat of these two species.

(25) Comment: One commenter stated that because the Big Sandy and Guyandotte River crayfishes survived through the severe environmental degradation that characterized the region's largely unregulated industrialization in the early to mid-1900s (see the *Historical context* discussion in the April 7, 2015, proposed rule; 80 FR 18710, pp. 18723–18724), modern-day regulated activities are much less harmful and do not pose a risk to the species.

Our Response: As we discussed in the proposed rule, the past industrialization of the region severely degraded the habitat required by the Big Sandy and Guyandotte River crayfishes and likely led to their extirpation from many streams within their ranges. The crayfish subpopulations that survived through this period of widespread environmental degradation are now largely isolated from one another because of dams or inhospitable intervening habitat (resulting from past and ongoing activities) in each river system and individual crayfish are found in low numbers at most of the remaining sites. These now isolated and generally low-abundance crayfish subpopulations do not maintain the same resiliency or redundancy of the original widespread and interconnected (at least initially) populations that were subjected to the rapid industrialization of the region in the 1900s and are at an increased risk of extirpation (see *Factor E* discussion, below). We, therefore, conclude that current regulated activities, while not causing widespread degradation on the scale seen in the 1900s, continue to pose a risk to the two species as they now exist.

(26) Comment: Several commenters expressed that the proposed rule incorrectly identified or focused on coal mining and timber operations as specific threats to the Big Sandy and Guyandotte River crayfishes and that we ignored other threats, including human development, roads, dams, and natural flood events.

Our Response: As we described in the *Factor A* discussion under the Summary of Factors Affecting the Species in the April 7, 2015, proposed rule (80 FR 18710), the primary threat to the Big Sandy and Guyandotte River crayfishes is habitat degradation caused by erosion and sedimentation from land-disturbing activities, including coal mining, commercial timber operations, road construction, ORV use, oil and gas development, and unpaved road surfaces (80 FR 18710, pp. 18722–18731). We also identified several contributing factors related to human population growth in the area, including wastewater discharges and unpermitted stream channel dredging. The best available scientific data, including published articles and State water quality reports, support our conclusion that these activities degrade the aquatic habitat required by these species.

In the proposed rule, we did not identify natural flood events as a threat to either the Big Sandy or the Guyandotte River crayfishes. Because these species evolved to live in the fast-flowing streams and rivers in the Appalachian Plateaus physiographic province, where episodic flood events are natural and recurring phenomena, we did not consider floods as a threat to either species' existence. However, as we discussed in the proposed rule, and below in this final rule (see "Residential/Commercial Development and Associated Stream Modifications" under the *Factor A* discussion in Summary of Factors Affecting the Species), human attempts to modify the streams and rivers to control flooding or mitigate flood damage may degrade the habitat that these species require. In the proposed rule, we discussed the effects of stream dredging or bulldozing on the habitat of these species, and while we did not list dams as specific threats, we did identify habitat fragmentation, caused at least in part by dams, as a threat. Based on input from some peer reviewers and public commenters, we have reconsidered the effects of dams on the two species and have added new language to this final rule discussing direct historical aquatic habitat loss resulting from reservoir creation.

(27) Comment: Two commenters that expressed concern about our finding that forestry is a contributing threat to the Big Sandy and Guyandotte River crayfishes provided information on the implementation rates and effectiveness of forestry BMPs and cited various studies purported to demonstrate that forestry BMPs minimize erosion and sediment transport to streams below levels that degrade aquatic habitats and/or harm aquatic species, including the Big Sandy and Guyandotte River crayfishes. One of the commenters also expressed that our estimate of soil erosion from timber harvesting appears to be too high.

Our Response: We appreciate the commenters' support of forestry BMPs as a means of protecting water quality, and we concur that when properly implemented, forestry BMPs can reduce erosion and sedimentation levels, especially as compared to past forestry practices. However, as we noted in the April 7, 2015, proposed rule (80 FR 18710), the best available data indicate that even when forestry BMPs are properly implemented, erosion rates at timbered sites, skid trails, unpaved haul roads, and stream crossings are significantly higher than from undisturbed sites (80 FR 18710, p. 18728).

We concur that the best available data indicate that Statewide BMP implementation rates for commercial forestry operations in Kentucky, Virginia, and West Virginia are generally high. However, as we noted in the proposed rule, in Kentucky and West Virginia, some categories of forestry, such as tree clearing in advance of coal mining, gas drilling, or other construction activities, are specifically exempted from implementing forestry BMPs. Regardless of specific forestry BMP implementation rates or situational efficacies, the State water quality monitoring reports (WVDEP 2012; KDOW 2013; VADEQ 2014) list timber operations (along with mining, roads, urban development, agriculture, and riparian clearing) as contributing excess sediments to streams and rivers within the ranges of the Big Sandy and Guyandotte River crayfishes.

Although we do not have sufficient data to produce comprehensive sediment budgets for each land-disturbing activity, in the proposed rule we did use the best available data to estimate the annual erosion potential within the ranges of the two species and stated that ". . . if the forest is undisturbed, about 3,906 tonnes (3,828 tons) of sediment will erode, while logging the same area will produce perhaps 67,158 to 149,436 tonnes (65,815 to 146,447 tons) of sediment" (80 FR 18710, p. 18730). One commenter indicated these estimates appeared too high and used data from much older studies to produce lower estimates. This comment led to our discovering two errors in our original calculations. However, upon correcting these errors (one transcription error and one unit conversion error), we have revised the estimated erosion rate from an undisturbed forested site in the southern Appalachians from 0.31 tonnes per hectare (ha) per year (yr) (0.12 tons per acre (ac) per year (yr)) to 0.47 tonnes/ha/yr (0.21 tons/ac/yr). This results in our original estimate of erosion from undisturbed forest, "3,906 tonnes (3,828 tons)", being corrected to "5,922 tonnes (6,456 tons)." We also corrected a "tonnes" to "tons" conversion error ("65,815 to 146,447 tons" is in error and should be "73,173 to 162,641 tons"). As to the commenter's use of older studies (dated 1965 to 1979) to estimate lower erosion potentials, we concluded that the data we used (see Hood *et al.* 2002) rely on an improved methodology and constitute the best available data.

Based on our estimate of annual, ongoing soil erosion from rotational forestry within the ranges of the Big Sandy and Guyandotte River crayfishes, and because these species appear to be particularly sensitive to stream sedimentation and bottom embeddedness, we maintain that sedimentation resulting from forestry is likely a contributing threat to these species. We are also committed to working with State and Federal agencies, the timber industry, and landowners to help minimize erosion from commercial forestry operations and maintain the instream habitat quality for these species.

(28) Comment: Several commenters questioned our determination that the Big Sandy and Guyandotte River crayfishes are distinct species or expressed concern that the taxonomic change confounds the interpretation of earlier survey reports. Commenters stated that prior to our making a final listing determination, studies on possible interbreeding of the two crayfish populations or on variation in demographic traits among conspecific populations should be conducted.

Our Response: As we described in the April 7, 2015, proposed rule (80 FR 18710), our determination that the Big Sandy crayfish and the Guyandotte River crayfish are distinct species was based upon a peer-reviewed scientific article, which represented the best available scientific data. We did not receive any substantive data during the public comment period, nor are we aware of any new data, that contradict these genetic and morphological data demonstrating that the Big Sandy crayfish and Guyandotte River crayfish are distinct, reproductively isolated species. In addition, one of the peer reviewers conducted an independent analysis of the available genetic data and concluded that the taxonomic split is valid (see Comment 5, above).

We do not agree that the taxonomic split of the Big Sandy crayfish and the Guyandotte River crayfish confounds the interpretation of earlier survey reports. While historically the two species were identified collectively as *Cambarus veteranus,* we have little evidence that earlier surveys routinely confused *C. veteranus* with any other crayfish species (we discussed exceptions to this in the April 7, 2015, proposed rule, 80 FR 18710, pp. 18715–18716). As we described in the proposed rule, independent crayfish experts have examined all known museum specimens identified as *C. veteranus* from both the Big Sandy basin and the Upper Guyandotte basin along with more recently collected specimens from each river basin. These experts determined that in both the museum specimens and recent captures, the morphological characteristics that distinguish the Big Sandy crayfish from the Guyandotte River crayfish were consistent with the geographical location (*i.e.,* Big Sandy basin or Upper Guyandotte basin) where the specimens were acquired. As we noted in the proposed rule, when discussing the earlier survey work (pre-taxonomic revision) we ascribed the appropriate species name based on the river basin from which specimens were collected. Therefore, we conclude that the best available data identify the appropriate taxonomic entity such that we can accurately analyze the two species' status.

(29) Comment: Several commenters questioned our delineation of the historical range of the Big Sandy and Guyandotte River crayfishes and asserted that we discounted information that indicated the historical range of the two species included river systems outside of the Big Sandy and Upper Guyandotte basins, or that the two species co-occurred in the Big Sandy and Upper Guyandotte basins.

Our Response: We appreciate these commenters' concerns, but do not agree that we omitted or improperly analyzed the best available data in determining the historical ranges of the Big Sandy and Guyandotte River crayfishes. As we described in the April 7, 2015, proposed rule (80 FR 18710), we relied upon Statewide crayfish survey reports, targeted survey reports, range maps and descriptions from historical crayfish surveys, genetic evidence, data from State wildlife agencies, analysis of museum collections, and the best professional judgment of crayfish experts to determine the historical range of each species. In the proposed rule, we noted several erroneous or dubious crayfish records from outside of the Big Sandy or Upper Guyandotte River basins and discussed the evidence indicating why these records do not support the historical presence of either the Big Sandy or the Guyandotte River crayfish outside of these two river basins or the cross-basin presence (*i.e.,* Guyandotte River crayfish in the Big Sandy basin or Big Sandy crayfish in the Upper Guyandotte basin) of either species.

In addition, neither the peer reviewers, including two with extensive experience surveying for crayfish in the Appalachian region, nor the VDGIF or the WVDNR disagreed with our analysis and description of the historical ranges of the two species. We did not receive any new data during the public comment period that indicated either species historically occupied sites outside of their respective river basins. Therefore, the best available data indicate that the Big Sandy crayfish is endemic to the Big Sandy River basin and the Guyandotte River crayfish is endemic to the Upper Guyandotte River basin.

(30) Comment: Several commenters questioned our conclusions on the population status of the Big Sandy crayfish or stated that the map of Big Sandy crayfish occurrence locations (figure 4 in the April 7, 2015, proposed rule; 80 FR 18710, p. 18719) was confusing and that it actually indicated that the Big Sandy crayfish population had increased from pre-2006 levels to the present time.

Our Response: As we noted in the proposed rule and in responses to Comments 1 and 10, above, we relied on the best quantitative and qualitative data available at that time to determine the status of the Big Sandy crayfish, including crayfish surveys and habitat assessments, range maps, genetic evidence, analysis of museum specimens, and expert scientific opinion. While we agree that quantitative population trend data are sparse, these other lines of scientific evidence indicate that the range and population of the Big Sandy crayfish is reduced and that the existing subpopulations are fragmented from one another. We note also that this pattern is consistent with the severe range reduction observed in the closely related Guyandotte River crayfish, for which we had more data. And as we described under the discussions of Factors A and E in the proposed rule (80 FR 18710, pp. 18722–18731, and 18732–18735, respectively), and discussed below in this final rule, threats to the species continue.

In the proposed rule, figure 4 shows all known survey sites and occurrence locations for the Big Sandy crayfish, broken down by time period (pre-2006 and 2006 to 2014). We acknowledge that figure 4 could be perceived as showing that the range of the Big Sandy crayfish has expanded since 2006, but we emphasize that this is only an artifact resulting from greatly increased sampling effort since 2006, especially outside of the Russell Fork drainage basin. Along with the known occurrence locations (pre-2006), the more recent surveys included streams throughout the Big Sandy crayfish's range that were identified by crayfish experts as being likely to harbor the species. Because these new sites are not known to have been surveyed previously, they provide no direct evidence that the species' range or population has increased or decreased in recent years. Loughman (2015a, entire) expanded the survey coverage in the Big Sandy basin, especially in the lower Levisa Fork and Tug Fork systems. His work generally confirmed the previously known occurrence locations, but did note four new occurrence locations in the lower Tug Fork basin (one in the Tug Fork mainstem and three in the Pigeon Creek system). These areas had not been surveyed previously and provide no direct evidence on population trends.

However, as we described in the proposed rule (see text and Table 2a; 80 FR 18710, pp.18719–18721), the fact that researchers were unable to confirm the species' presence at most locations throughout its historical range (displayed as open circles on figure 4 of the proposed rule) indicates that the species' range and population is reduced and that the existing subpopulations are fragmented from each other. Additionally, at many sites where the Big Sandy crayfish does still exist, especially outside of the Russell Fork basin, the CPUE data indicate the species is found in relatively low numbers (see *Population Status,* below).

(31) Comment: One commenter provided preliminary results of the survey efforts funded by the Service and conducted in the Upper Guyandotte and Tug Fork basins of West Virginia.

(32) Comment: One commenter stated that the Big Sandy and Guyandotte River crayfishes are sensitive to elevated stream sedimentation and substrate embeddedness. Additionally, during the reopened comment period (December 15, 2015, to January 14, 2016), this commenter submitted an additional letter that supported both species receiving Federal protection and provided additional observations from the Service-funded 2015 rangewide surveys.

Our Response: We appreciate these observations regarding the preferred habitat and status of the Big Sandy and Guyandotte River crayfishes and have incorporated this new information into this final rule.

(33) Comment: One commenter disagreed with our determination that the Big Sandy crayfish population was in decline and described an abundance of crayfish on his property near Clintwood, Virginia (Pound River/ Cranes Nest River drainage). The commenter described these crayfish as destroying his property by creating holes in the ground, thus presenting a hazard to individuals using his property.

Our Response: We appreciate the commenter's concern, but note that these observations appear to describe behavior of a burrowing crayfish species. As we described in the April 7, 2015, proposed rule (80 FR 18710), the best available data indicate the Big Sandy and Guyandotte River crayfishes are wholly aquatic species that naturally inhabit the faster moving portions of streams and rivers with abundant unembedded slab boulders for cover. As "tertiary burrowers," these species are not known to construct burrows or dig holes in upland or semi-aquatic areas. Therefore, it is unlikely that the commenter's observations are related to Big Sandy or Guyandotte River crayfish.

(34) Comment: Two commenters described the effects of coal mining operations on streams adjacent to their properties. Both commenters provided anecdotal information on the degradation of water quality as a result of mine runoff and noted the disappearance of aquatic species, including unspecified crayfish species, following construction of the mines.

Our Response: While we have no data or details on these specific examples with which to respond further, the observations of these commenters appear similar to some of the findings described in the scientific literature on the effects that coal mining can have on aquatic resources (see the April 7, 2015, proposed rule's *Historical context, Current conditions,* and *Coal mining* sections under the *Factor A* discussion in Summary of Factors Affecting the Species (80 FR 18710).

(35) Comment: One commenter noted that we incorrectly implied that suitable habitat for the Big Sandy and Guyandotte River crayfishes includes "headwater streams," which they described as small, nonperennial streams.

Our Response: We appreciate the commenter's observation and agree that, as we indicated in the April 7, 2015, proposed rule, based on the best available data, small, nonperennial streams are not suitable habitat for either species of crayfish. In the proposed rule, we described the historical range and distribution of the Big Sandy crayfish to include "suitable streams throughout the basin, from the Levisa Fork/Tug Fork confluence to the headwaters." Our use of "to the headwaters" was intended to convey that the best available data suggest that the species likely occupied suitable habitat (*i.e.,* fast-flowing, medium-sized streams and rivers with an abundance of slab boulders on an unembedded bottom substrate) throughout the interconnected stream network of the larger river basin, up to, but not including the small, sometimes intermittent headwater streams.

(36) Comment: One commenter disagreed with our conclusion that pesticides and herbicides that may be present in the runoff from roads could degrade the habitat of the Big Sandy and Guyandotte River crayfishes. The commenter requested that we remove this discussion from the final rule.

Our Response: As we noted in the April 7, 2015, proposed rule (80 FR 18710), the best available data indicate that the primary threat to the Big Sandy and Guyandotte River crayfishes is excessive erosion and sedimentation that leads to stream bottom embeddedness. However, the data also suggest that other stressors, such as water quality degradation, may also contribute to the decline of these species. While the commenter correctly noted that we have no specific studies on the effects of road runoff contaminants to the Big Sandy and Guyandotte River crayfishes, the best available data do indicate that road runoff can contain a complex mixture of contaminants, including pesticides and herbicides, metals, organic chemicals, nutrients, and deicing salts and that these contaminants, alone or in combination, can degrade receiving waters and be detrimental to aquatic organisms (see "Water Quality Degradation" under the Factor A discussion, below). We note also that pesticides and herbicides may be released to roadways as a result of accidents or spills or in concentrations or mixtures contrary to U.S. Environmental Protection Agency (USEPA) pesticide registration labeled directions. Under such circumstances, these chemicals could pose a higher risk to aquatic species, including the Big Sandy and Guyandotte River crayfishes (Buckler and Granato 1999, entire; Boxall and Maltby 1997, entire; NAS 2005, pp. 72–75, 82–86).

(37) Comment: One commenter provided information on the reduction of forest cover within the range of the Guyandotte River crayfish between 1973 and 2013. The commenter reported that there was a 5.5 percent loss of forest cover within the Upper Guyandotte basin during that period and that the loss of forest cover was largely the result of coal mining. The commenter concluded that coal mining likely contributed to the decline of the Guyandotte River crayfish.

Our Response: The data on land use changes documented in the report (Arneson 2015) referenced by the commenter support the conclusion that, since 1973, coal mining has significantly reduced forest cover in the Upper Guyandotte River basin. At the subwatershed scale, Pinnacle Creek experienced the greatest loss of forest cover during the period. We appreciate this new scientific information that further supports our analysis in the proposed rule of land-disturbing activities occurring within the current range of the Guyandotte River crayfish.

(38) Comment: One commenter concurred with our determination that the crayfish population has declined (the commenter did not distinguish between Big Sandy crayfish and Guyandotte River crayfish), but disagreed that this decline was caused solely by construction, logging, or ORV use. The commenter advocated that plastic litter and/or the invasive plant kudzu (*Pueraria montana* var. *lobata*) could be causes of water contamination and should be investigated. The commenter also suggested that similar crayfish from other areas could be introduced to areas where Big Sandy or Guyandotte River crayfishes (presumably) are rare or absent. The commenter also expressed concern that Federal listing of these species could cause economic harm to the region or the Hatfield-McCoy ORV trail system.

Our Response: As we described in the April 7, 2015, proposed rule (80 FR 18710), the best available data indicate the primary threat to the Big Sandy and Guyandotte River crayfishes is excessive erosion and sedimentation that leads to stream bottom embeddedness. We also described a variety of land-disturbing activities, in addition to those listed by the commenter, known to cause erosion and sedimentation within the ranges of the species. The commenter did not provide any supporting information that kudzu could degrade water quality, and we were unable to locate any such data. And, while we acknowledge plastic litter is an aesthetic concern that may pose a physical hazard to some species (*e.g.,* from entanglement or perhaps ingestion), we found no information indicating that plastic debris is related to the decline of the Big Sandy or Guyandotte River crayfishes, nor did the commenter provide such supporting information.

While we appreciate the concern about potential management actions that may result from listing the Big Sandy and Guyandotte River crayfishes, the Act does not allow us to factor those economic concerns into our listing decision (see our response to Comment 21, above). However, we must consider economic impacts into designations of critical habitat, should critical habitat be proposed for either or both species.

Summary of Changes From the Proposed Rule

This final rule incorporates appropriate changes to our proposed listing based on the comments we received, as discussed above, and newly available scientific and commercial data. The main substantive change is that, based on new data on the Big Sandy crayfish's distribution, its habitat, and analysis of the species' redundancy and resiliency, we have determined that the Big Sandy crayfish does not meet the definition of an endangered species, contrary to our proposed rule published on April 7, 2015 (80 FR 18710). Specifically, the 2009 to 2015 survey data, which became available after the proposed rule was published, indicate: The species is known to occur in an additional population in the lower Tug Fork subwatershed; some occurrences in all four subwatersheds are supported by good quality habitat; and in some streams, especially in the Russell Fork, the species likely occurs throughout the entire stream rather than only in discrete sections. We conclude that the species has additional redundancy above what was known when we published the proposed rule. This increase in redundancy also contributes to the species' overall resiliency to the ongoing threats in its range, all of which indicates that the Big Sandy crayfish is not currently in danger of extinction. Therefore, this final rule lists the Big Sandy crayfish as a threatened, rather than an endangered, species. As in the proposed rule, this final rule lists the Guyandotte River crayfish as an endangered species. See the *Population Status* and Determination sections, below, for more detail.

Other substantive changes include the following: (1) We incorporated the results of new crayfish survey efforts, including new occurrence records for the Big Sandy crayfish and the Guyandotte River crayfish, into this final rule; and (2) we analyzed several additional potential threats to both species, including instream projects, dams, climate change, unstable streams, and transportation spills.

Background

The information in the following sections is summarized from the proposed listing rule for the Big Sandy crayfish and the Guyandotte River crayfish (80 FR 18710; April 7, 2015) and its citations are incorporated by reference unless otherwise noted. For a complete summary of the species' information, please see the proposed listing rule.

Species Information

The Big Sandy crayfish (*Cambarus callainus*) and the Guyandotte River crayfish (*C. veteranus*) are freshwater, tertiary burrowing crustaceans of the Cambaridae family. Tertiary burrowing crayfish do not exhibit complex burrowing behavior; instead, they shelter in shallow excavations under loose cobbles and boulders on the stream bottom. The two species are closely related and share many basic physical characteristics and behaviors. Adult body lengths range from 75.7 to 101.6 millimeters (mm) (3.0 to 4.0 inches (in)), and the cephalothorax (main body section) is streamlined and elongate, and has two well-defined cervical spines. The elongate convergent rostrum (the beak-like shell extension located between the crayfish's eyes) lacks spines or tubercles (bumps). The gonopods (modified legs used for reproductive purposes) of Form I males (those in the breeding stage) are bent 90 degrees to the gonopod shaft (Loughman 2014, p. 1). Diagnostic characteristics that distinguish the Big Sandy crayfish from the Guyandotte River crayfish include the former's narrower, more elongate rostrum; narrower, more elongate chelea (claw); and lack of a well-pronounced lateral impression at the base of the claw's immovable finger (Thoma *et al.* 2014, p. 551).

Thoma (2009, entire; 2010, entire) reported demographic and life-history observations for the Big Sandy crayfish in Virginia and Kentucky. He concluded that the general life cycle pattern of the species is 2 to 3 years of growth, maturation in the third year, and first mating in midsummer of the third or fourth year. Following midsummer mating, the annual cycle involves egg laying in late summer or fall, spring release of young, and late spring/early summer molting. Thoma hypothesized the likely lifespan of the Big Sandy crayfish to be 5 to 7 years, with the possibility of some individuals reaching 10 years of age. There is less information available specific to the life history of the Guyandotte River crayfish, but based on other shared characteristics with the Big Sandy crayfish, we conclude the life span and age to maturity are similar. The best available data indicate both species are opportunistic omnivores, feeding on plant and animal matter (Thoma 2009b, pp. 3, 13; Loughman 2014, pp. 20–21).

The best available data indicate that the historical range of the Guyandotte River crayfish is limited to the Upper Guyandotte River basin in West Virginia and that the historical range of the Big Sandy crayfish is limited to the upper Big Sandy River basin in eastern Kentucky, southwestern Virginia, and southern West Virginia. Both river basins are in the Appalachian Plateaus physiographic province, which is characterized by rugged, mountainous terrain with steep hills and ridges dissected by a network of deeply incised valleys (Ehlke *et al.* 1982, pp. 4, 8; Kiesler *et al.* 1983, p. 8). The dominant land cover in the two basins is forest, with the natural vegetation community being characterized as mixed mesophytic (moderately moist) forest and Appalachian oak forest (McNab and Avers 1996, section 221E).

Suitable habitat for both species is generally described as clean, third order or larger (width of 4 to 20 meters (m) (13 to 66 feet (ft))), fast-flowing, permanent streams and rivers with an abundance of large, unembedded slab boulders on a sand, cobble, or bedrock stream bottom (Jezerinac *et al.* 1995, p. 171; Channell 2004, pp. 21–23; Taylor and Shuster 2004, p. 124; Thoma 2009b, p. 7; Thoma 2010, pp. 3–4, 6; Loughman 2013, p. 1; Loughman 2014, pp. 22–23; Loughman 2015a, pp. 1, 29, 41–43; Loughman 2015b, pp. 1, 9–12, 28–30, 35–36). Under natural (*i.e.*, undegraded) conditions, this habitat was common in streams throughout the entire upper Big Sandy and Upper Guyandotte River basins, and historically, both species likely occurred throughout their respective ranges where this habitat existed. However, by the late 1800s, commercial logging and coal mining, coupled with rapid human population growth and increased development in the narrow valley riparian zones, began to severely degrade the aquatic habitat throughout both river basins. We conclude, based on the best available data, this widespread habitat degradation, most visible as stream bottom embeddedness, likely led to each species' decline and their eventual extirpation from many streams within much of their respective historical ranges.

Both species appear to be intolerant of excessive sedimentation and embeddedness of the stream bottom substrate. This statement is based on observed habitat characteristics from sites that either formerly supported the Big Sandy or Guyandotte River crayfish or from sites within either of the species' historical ranges that were predicted to be suitable for the species, but where neither of the species (and in some cases no crayfish from any species) were observed (Jezerinac *et al.* 1995, p. 171; Channell 2004, pp. 22–23; Thoma 2009b, p. 7; Thoma 2010, pp. 3–4; Loughman 2013, p. 6; Loughman 2015a, pp. 29, 41–43; Loughman 2015b, pp. 28–30, 35–36). See Summary of Factors Affecting the Species, below, for additional information.

Summary of Biological Status and Threats

Here, we summarize the two species' distribution, abundance, and threats information that was previously provided in the proposed rule (80 FR 18710; April 7, 2015) and has been updated as appropriate from new information we received since the proposed rule's publication. Unless otherwise noted, citations for the summarized information are from the proposed rule and incorporated by reference. See Summary of Changes from the Proposed Rule, above, for what has been updated.

Big Sandy Crayfish

Historically (prior to 2006), the Big Sandy crayfish was known from 11 stream systems in the 4 larger subwatersheds in the upper Big Sandy River watershed: Tug Fork, Levisa Fork, Upper Levisa Fork, and Russell Fork (see figure 1, below). However, pre-2006 survey data for the species is sparse, with only 25 surveyed sites in 13 stream systems. Most of these records were from the Russell Fork subwatershed (with multiple records dating back to 1937), and single records were available from the Levisa Fork, Upper Levisa Fork, and Tug Fork subwatersheds (all confirmed between 1999 and 2002).

The Big Sandy crayfish is currently known from a total of 21 stream systems in the same four subwatersheds. However, we emphasize this apparent increase in occupied stream systems is an artifact of increased sampling effort, and not necessarily an increase in the species' redundancy. From 2006 to 2015, a series of surveys were conducted that effectively covered the species' historical range, including the first comprehensive rangewide survey for the species, which was funded by the Service in 2015 (see Loughman 2015a, entire). During this period, a total of 276 sites (including all historical locations and additional "semi-random" locations (*e.g.*, appropriately-sized streams for the species)) were surveyed throughout the Tug Fork, Levisa Fork, Upper Levisa Fork, and Russell Fork watersheds. The Big Sandy crayfish was confirmed at 86 of the surveyed sites (31 percent) and in 21 of the 55 surveyed stream systems (38 percent). A notable result of the 2015 rangewide survey was confirmation of the species' presence in the lower Tug Fork basin, where a single occurrence was found in the Tug Fork mainstem and three occurrences were noted in the Pigeon Creek system.

While the species is still found in all four subwatersheds, current data (2006 to 2015) indicate notable differences in the species' distribution in each subwatershed. In the Russell Fork subwatershed, the Big Sandy crayfish was found in 92 percent of the stream systems surveyed (52 percent of sites). In the other subwatersheds, the species was less well distributed. In the Levisa Fork and Upper Levisa Fork watersheds, only 13 percent of the surveyed stream systems were occupied (19 and 24 percent of sites, respectively) and in the Tug Fork subwatershed, 35 percent of surveyed stream systems were occupied (23 percent of sites) (see figure 1 and tables 1a through 1d, below).

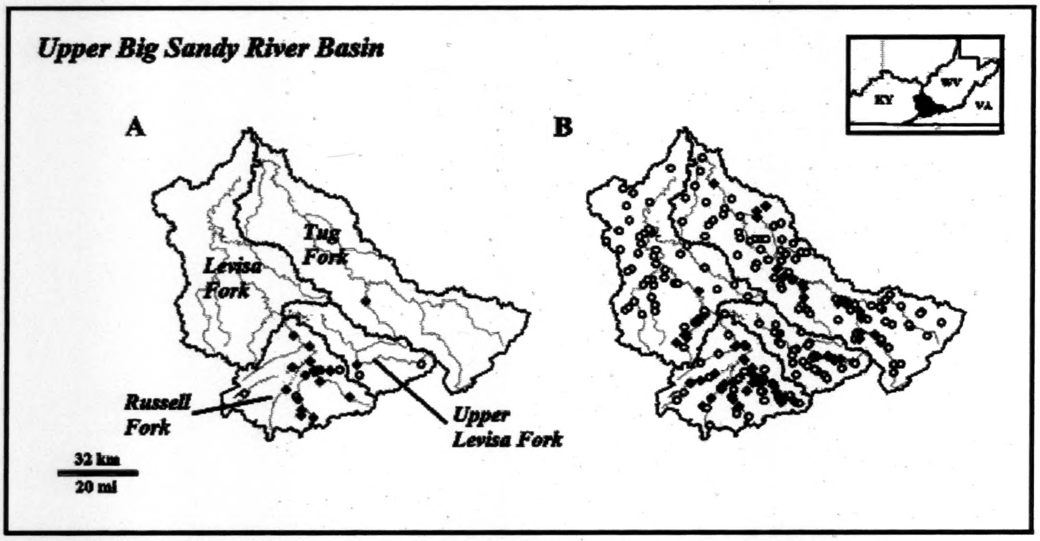

Figure 1. Historical and current survey results for the Big Sandy crayfish. A. Pre-2006 survey results; B. 2006 through 2015 survey results. Positive species occurrences are indicated by black diamonds, negative results are open circles.

Tables 1a, 1b, 1c, 1d. Survey effort and results for the four subwatersheds.

1a **Levisa Fork**

	Sites Surveyed	Positive for *C. callainus*	Percent Positive	Streams Surveyed	Positive for *C. callainus*	Percent Positive
1999 to 2005	1	1	100%	1	1	100%
2006 to 2015	59	11	19%	15	2	13%

1b **Upper Levisa Fork**

	Sites Surveyed	Positive for *C. callainus*	Percent Positive	Streams Surveyed	Positive for *C. callainus*	Percent Positive
2001 to 2005	3	1	33%	3	1	33%
2006 to 2015	37	9	24%	8	1	13%

1c **Russell Fork**

	Sites Surveyed	Positive for *C. callainus*	Percent Positive	Streams Surveyed	Positive for *C. callainus*	Percent Positive
1937 to 2005	20	17	85%	8	8	100%
2006 to 2015	82	43	52%	12	11	92%

1d Tug Fork

	Sites Surveyed	Positive for *C. callainus*	Percent Positive	Streams Surveyed	Positive for *C. callainus*	Percent Positive
2002 to 2005	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2006 to 2015	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Guyandotte River Crayfish

In the April 7, 2015, proposed rule, we indicated that the Guyandotte River crayfish was historically known from nine individual streams in the Upper Guyandotte River basin (80 FR 18710, pp. 18717–18720); we have since revised this to be six individual streams (or stream systems where their smaller tributaries were also surveyed). Based on the best available data at the time of the proposed rule, we considered the species' distribution based on its occupancy status in each individually named stream. On closer analysis of the watershed, we determined that some of these individually named streams were actually smaller tributaries connected into a primary tributary stream (*i.e.,* the streams that connect directly to the Upper Guyandotte River mainstem). Therefore, for the purpose of understanding the species' overall distribution, we concluded that primary streams and their tributaries should be considered together as a "stream system." Previous surveys (see Jezerinac *et al.* 1995) identified a species occurrence in "Little Indian Creek." However, based on the site description provided in the report and our analysis of the relevant U.S. Geological Survey topographic maps, we have determined that this creek is not unique, but a misnamed section of Indian Creek. Also, for the purpose of assessing the status of the Guyandotte River crayfish, we determined that Brier Creek, a tributary to Indian Creek, is more appropriately considered part of the larger Indian Creek system. Finally, the two museum specimens collected from Little Huff Creek in 1971, and previously identified as *Cambarus veteranus,* were re-examined in 2014, and determined to be *C. theepiensis* (National Museum of Natural History *http://collections.nmnh.si.edu/search/iz/*; accessed December 21, 2015). Therefore, Little Huff Creek is no longer a known occurrence location for the Guyandotte River crayfish. Regardless of this revised information, multiple survey efforts dating back to 1900 show a significant reduction in the number of occupied streams. Rangewide surveys in 1988 and 1989 confirmed the species in two stream systems, the historical Huff Creek system and a new stream record, Pinnacle Creek. In 2002, a study failed to confirm the species at any historical site (Channell 2004, pp. 17–18), but a more comprehensive survey in 2009 did find several individuals in Pinnacle Creek (Loughman 2013, p. 6) (see figure 2, below).

The Guyandotte River crayfish is currently known from two disjunct stream systems in the Upper Guyandotte River basin. In 2015, the Service funded additional rangewide surveys for the species (see Loughman 2015b). A total of 71 likely sites (in 21 stream systems) were surveyed throughout the Upper Guyandotte River basin, including all historical locations and additional "semi-random" locations). The species was confirmed at 10 individual sites (in two stream systems). In Pinnacle Creek, the last known occupied stream, the species was found at 4 of 9 sites surveyed. And in Clear Fork, which is a new stream record for the species, the Guyandotte River crayfish was found at 6 of 9 sites (see figure 2 and table 2, below).

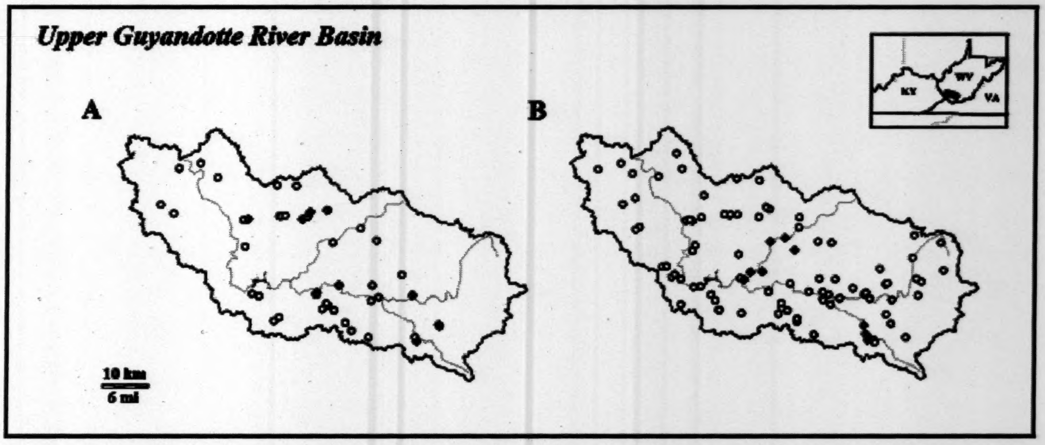

Figure 2. Historical and current survey results for the Guyanadotte River crayfish. A. Pre-2006 survey results; B. 2006 through 2015 survey results. Positive species occurrences are indicated by black diamonds, negative results are open circles.

Table 2. Survey effort and results for the Guyandotte River crayfish. Historical data are presented on the top row, current data are presented on the bottom row.

	Upper Guyandotte Basin					
	Sites Surveyed	Positive for *C. veteranus*	Percent Positive	Streams Surveyed	Positive for *C. veteranus*	Percent Positive
1900 to 2005	56	10	18%	15	6	40%
2006 to 2015	103	12	12%	24	2	8%

Population Status

There are no historical or current total population estimates for the Big Sandy crayfish or Guyandotte River crayfish. However, the best available data provide information on the distribution and abundance of each species. Historical survey information, historical stream connectedness, current distribution data, genetic evidence, and expert opinion support that these species once occupied most, perhaps all, third order or larger stream systems throughout their respective ranges. The evidence further supports the conclusion that, under natural (*i.e.,* undegraded) conditions, these species likely occur (or occurred) along the stream continuum wherever suitable slab boulder habitat exists (Appalachian Technical Services, Inc. (ATS) 2010, entire; ATS 2012a, entire; ATS 2012b, entire; Loughman 2015a, p. 23; Loughman 2015b, pp. 9–10). Historically, this slab boulder habitat was common throughout most of both species' ranges, however it may be naturally patchy in some streams in the lower Levisa Fork and Tug Fork subwatersheds in the Big Sandy River basin and in some of the lower tributary streams in the Upper Guyandotte River basin (Loughman 2015a, pp. 5–29; Loughman 2015b, pp. 9–25). Currently, suitable slab boulder habitat is limited by anthropogenic degradation (discussed below under *Factor A*).

Survey data from 1900 (prior to the widespread industrialization of the region) and from current occupied streams that maintain high-quality habitat indicate that unrestricted sampling at a "healthy" site should produce 20 to 25 individual Big Sandy or Guyandotte River crayfish specimens (Faxon 1914, pp. 389–390; Thoma 2009a, p. 10; ATS 2010, entire; ATS 2012a, entire; ATS 2012b, entire; Virginia Department of Transportation (VDOT) 2014b, entire; VDOT 2015, entire). Between 2006 and 2015, where possible, survey data were normalized to a common metric, "catch per unit effort" (CPUE). In general, sites described as "robust" or "healthy" maintained CPUE values of 5 or more crayfish per hour (Thoma 2009, pp. 17–18; Thoma 2010, p. 6; Loughman 2014, p. 15).

In 2015, 39 sites in the Big Sandy River basin (representing 25 percent of those surveyed) were positive for the Big Sandy crayfish. The *actual* CPUE values for these occupied sites ranged from 1 to 5 Big Sandy crayfish per hour (mean 2.1 crayfish per hour). However, only four sites had "robust" CPUE values of 5, and approximately half (n=19) of occupied sites had a CPUE value of 1, indicating low Big Sandy crayfish abundance. The basinwide *average* CPUE value (including occupied and unoccupied sites) was 0.5 Big Sandy crayfish per hour. Where data exist to make a temporal comparison, between 2007 and 2015, seven stream systems showed a decline in CPUE values and four stream systems did not appear to change (see table 3, below).

In 2015, 10 sites in the Upper Guyandotte River basin (representing 14 percent of those surveyed) were positive for the Guyandotte River crayfish. The *actual* CPUE values for these occupied sites ranged from 2 to 15 Guyandotte River crayfish per hour (mean 5.0 crayfish per hour). In Pinnacle Creek, none of the occupied sites had a CPUE value indicative of a "robust" Guyandotte River crayfish population; the highest CPUE value in Pinnacle Creek was 4 crayfish per hour (mean 2.8 crayfish per hour, n=4). In Clear Fork, four of the sites had CPUE values indicative of "robust" Guyandotte River crayfish populations; the highest CPUE value was 15 crayfish per hour (mean 6.5 crayfish per hour, n=6). The basinwide *average* CPUE (including occupied and unoccupied sites) was 0.7 Guyandotte River crayfish per hour. The temporal data for Pinnacle Creek do not indicate a significant change in CPUE values between 2009 and 2015 (see table 3).

Table 3. The CPUE values for streams where multi-year data exists. Streams with multiple positive sites are reported as averages ("n" represents the number of positive occurrences used to calculate the average); CPUE values without an "n" indicates a single site.

Species	Watershed	Stream System	2007	2009	2011	2014	2015
Big Sandy crayfish	Levisa Fork	Shelby Creek		6 (n=3)			1.8 (n=5)
	Upper Levisa Fork	Dismal Creek	5.3 (n=4)				5 (n=2)
	Russell Fork	Elkhorn Creek		1			1
		Russell Fork	12 (n=5)	13.5 (n=2)			1.8 (n=5)
		McClure River	12 (n=5)				2 (n=3)
		Pound River	21.7 (n=3)				3
		Cranes Nest River	12 (n=2)				2.7 (n=3)
	Tug Fork	Dry Fork		3	3.6	9 (n=2)	1.4 (n=5)
		Blackberry Creek		1			1
		Tug Fork			3.2		2.7 (n=3)
		Knox Creek		7			3 (n=2)
Guyandotte River crayfish	Upper Guyandotte	Pinnacle Creek		2	2.5		2.8 (n=4)

As with the distribution data discussed above, the 2015 survey data indicate differences in CPUE values and overall habitat quality (as measured by the standard QHEI) between the four major subwatersheds (see tables 4a, 4b, 4c, and 4d, below). In the Russell Fork basin, the *average* CPUE value (including occupied and unoccupied sites) was 1.1 Big Sandy crayfish per hour and the *average* QHEI score was 74. In the Upper Levisa Fork basin, the *average* CPUE value was 0.7 and the *average* QHEI score was 73. The Tug Fork and Levisa Fork basins appeared to be less "healthy," with *average* CPUE values of 0.4 and 0.2, respectively, and *average* QHEI scores of 65 and 61, respectively.

Tables 4a, 4b, 4c, 4d. Comparison of average CPUE values and average QHEI scores in the four upper Big Sandy River basin subwatersheds.

4a **Levisa Fork**

C. callainus		**CPUE**		**QHEI**	
Site Status	**n**	**Mean**	**Range**	**Mean**	**Range**
Positive	5	1.8	1-3	69	64-74
Negative	38	n/a	n/a	60	32-82
Overall	43	0.2	n/a	61	32-82

4b **Upper Levisa Fork**

C. callainus		**CPUE**		**QHEI**	
Site Status	**n**	**Mean**	**Range**	**Mean**	**Range**
Positive	2	5.0	5	73	66-80
Negative	12	n/a	n/a	73	63-86
Overall	14	0.7	n/a	73	63-86

4c **Russell Fork**

C. callainus		**CPUE**		**QHEI**	
Site Status	**n**	**Mean**	**Range**	**Mean**	**Range**
Positive	16	2.2	1-4	75	60-91
Negative	15	n/a	n/a	72	60-89
Overall	31	1.1	n/a	74	60-91

4d **Tug Fork**

C. callainus		**CPUE**		**QHEI**	
Site Status	**n**	**Mean**	**Range**	**Mean**	**Range**
Positive	16	1.7	1-5	72	62-89
Negative	49	n/a	n/a	63	44-90
Overall	65	0.4	n/a	65	44-90

Additionally, Big Sandy crayfish relocation surveys conducted in the Russell Fork basin between 2009 and 2015 indicate that, in the relatively high quality streams of this subwatershed, the species appears to occur along significant stream distances, not necessarily just discrete locations. During these relocation surveys, the species was also collected in high numbers at many sites. Based on these relocation survey data and the distribution data that indicated 92 percent of the streams in the Russell Fork basin are occupied (see table 1c, above), we conclude that the population of Big Sandy crayfish in the Russell Fork subwatershed is likely more resilient than indicated by the data available at the time we published the April 7, 2015, proposed rule (80 FR 18710).

Summary

The best available data indicate that the distribution and abundance of both the Big Sandy crayfish and the Guyandotte River crayfish are reduced from their historical levels. The Big Sandy crayfish currently occupies approximately 38 percent of the presumed historically suitable stream systems within its historical range. Within these stream systems, the most recent survey data indicate that the species occupies 31 percent of the surveyed sites. However, as described above, this percentage varies markedly among the four major subwatersheds, with the species being poorly represented in the Levisa Fork and Upper Levisa Fork subwatersheds. The Guyandotte River crayfish currently occupies only two streams, or approximately 8 percent of the presumed historically suitable stream systems within its historical range. Within these two streams, the species is currently found at 12 percent of the individual sites surveyed. The CPUE data also indicate that, at currently occupied sites, both species are generally found in low numbers, with few sites indicating "robust" populations of Big Sandy crayfish or Guyandotte River crayfish. It is possible that additional occurrences of either species could be found, but not probable given the extent of the current survey efforts (see figures 1 and 2, above) combined with habitat quality information (either natural or human mediated conditions) discussed below. In addition to occupying fewer streams and sites within streams, the species' stream occurrences are fragmented and isolated from each other (see figures 3 and 4, below).

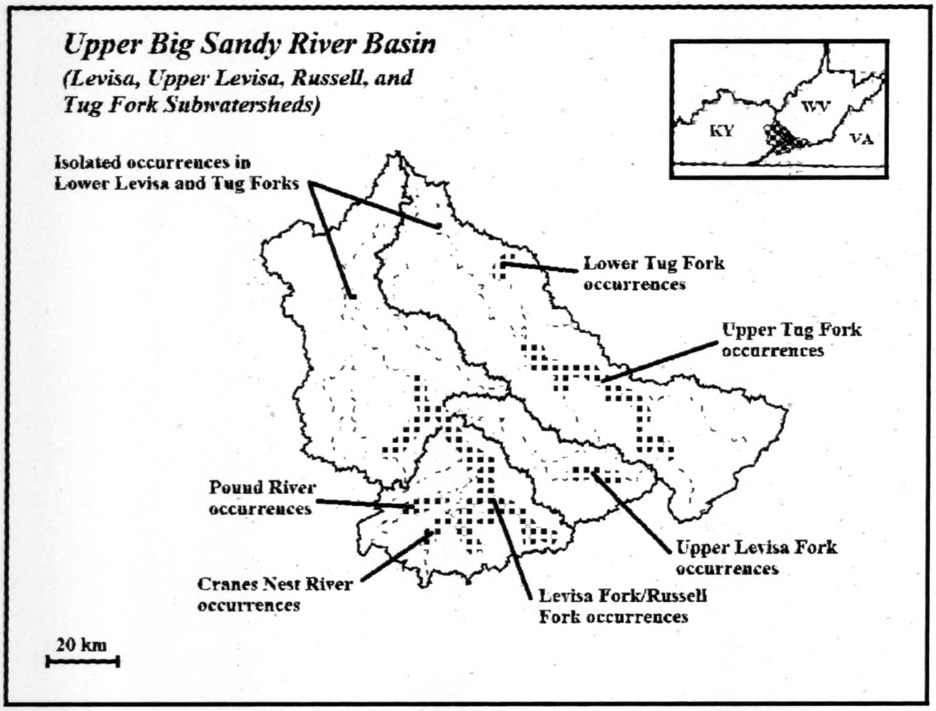
Upper Big Sandy River Basin
(Levisa, Upper Levisa, Russell, and Tug Fork Subwatersheds)
KY
WV
VA
Isolated occurrences in Lower Levisa and Tug Forks
Lower Tug Fork occurrences
Upper Tug Fork occurrences
Pound River occurrences
Upper Levisa Fork occurrences
Cranes Nest River occurrences
Levisa Fork/Russell Fork occurrences
20 km

Figure 3. Fragmentation of the existing Big Sandy crayfish subpopulations. Based on the reasonable assumption that suitable habitat should exist within the shaded areas to permit crayfish movement and/or occupation between current confirmed survey sites.

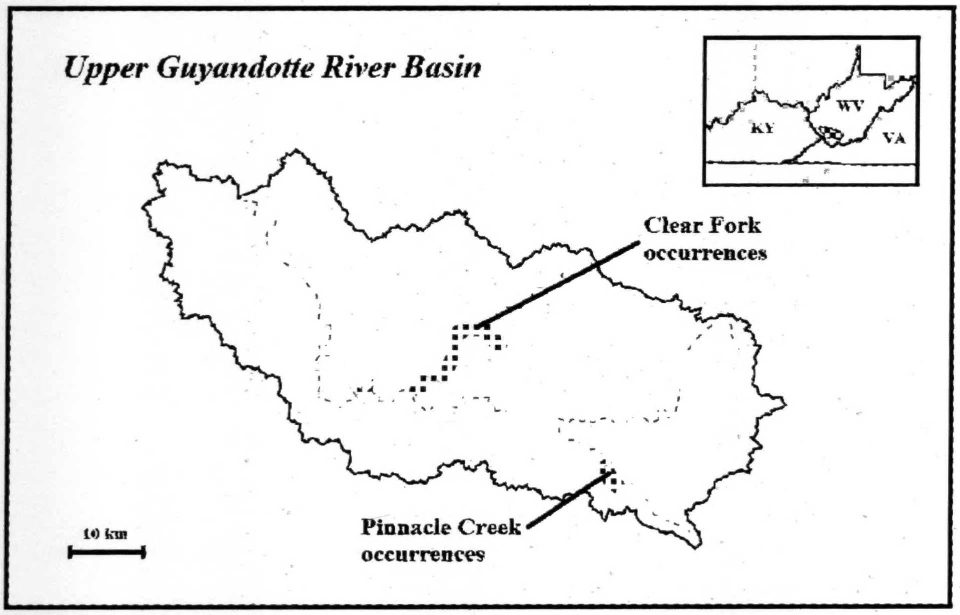
Upper Guyandotte River Basin
KY
WV
VA
Clear Fork occurrences
10 km
Pinnacle Creek occurrences

Figure 4. Fragmentation of the existing Guyandotte River crayfish subpopulations. Based on the reasonable assumption that suitable habitat should exist within the shaded areas to permit crayfish movement and/or occupation between current confirmed survey sites.

Summary of Factors Affecting the Species

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Within the historical range of both the Big Sandy and the Guyandotte River crayfish, the aquatic habitat has been severely degraded by past and ongoing human activities (Hunt *et al.* 1937, p. 7; Eller 1982, pp. 162, 184–186; Jezerinac *et al.* 1995, p. 171; Channell 2004, pp. 16–23; Thoma 2009b, p. 7; Thoma 2010, pp. 3–4; Loughman 2013, p. 6; Loughman and Welsh 2013, p. 23; Loughman 2014, pp. 10–11). Visual evidence of habitat degradation, such as excessive bottom sedimentation, discolored sediments, or stream channelization and dredging, is often obvious, while other water quality issues such as changes in pH, low dissolved oxygen levels, high dissolved solids, high conductivity, high metals concentrations, and changes in other chemical parameters are less visibly obvious. Within the range of each species, water quality monitoring reports, most recently from the Kentucky Division of Water (KDOW) (2013, entire), the U.S. Environmental Protection Agency (USEPA) (2004, entire), the Virginia Department of Environmental Quality (VADEQ 2012, entire), and the West Virginia Department of Environmental Protection (WVDEP 2014, entire), have linked these widespread and often interrelated direct and indirect stressors to coal mining and abandoned mine land (AML), commercial timber harvesting, residential and commercial development, roads, and sewage discharges.

The best available data indicate that the presence and abundance of both the Big Sandy crayfish and Guyandotte River crayfish are correlated with habitat quality, specifically streams with slab boulders and low levels of sedimentation and substrate embeddedness (Jezerinac *et al.* 1995, entire; Channell 2004, pp. 22–24; Thoma 2009b, p. 7; Thoma 2010, pp. 3, 6; Loughman 2014, pp. 22–23; Loughman 2015a, pp. 29–30; Loughman 2015b, pp. 25–30). In 2015, rangewide surveys for both species measured habitat quality using the QHEI that includes measures of substrate quality and embeddedness (Loughman 2015a, entire; Loughman 2015b, entire). Based on QHEI scores, 31 percent of sites occupied by the Big Sandy crayfish (n=39) and 80 percent of sites occupied by the Guyandotte River crayfish (n=10) had habitats classified as "Excellent." Habitats at all remaining occupied sites were classified as "Good." No Big Sandy crayfish or Guyandotte River crayfish were collected at sites classified as "Fair," "Poor," or "Very Poor."

Coal Mining

The past and ongoing effects of coal mining in the Appalachian Basin are well documented, and both underground and surface mines are reported to degrade water quality and stream habitats (Matter and Ney 1981, pp. 67–70; Williams *et al.* 1996, pp. 41–46; Sams and Beer 2000, entire; Demchak *et al.* 2004, entire; Hartman *et al.* 2005, pp. 94–100; Pond *et al.* 2008, entire; Lindberg *et al.* 2011, entire; Merriam *et al.* 2011, entire; Pond 2011, entire; USEPA 2011b, entire; Bernhardt *et al.* 2012, entire; Hopkins *et al.* 2013, entire; Wang *et al.* 2013, entire; Palmer and Hondula 2014, entire). The common physical changes to local waterways associated with coal mining include increased erosion and sedimentation, changes in flow, and in many cases the complete burial of headwater streams (USEPA 1976, pp. 3–11; Matter and Ney 1981, entire; Hartman *et al.* 2005, pp. 91–92; Pond *et al.* 2008, pp. 717–718; USEPA 2011b, pp. 7–9). These mining-related effects, which can contribute to stream bottom embeddedness, are commonly noted in the streams and rivers within the ranges of the Big Sandy and the Guyandotte River crayfishes (USEPA 2004; WVDEP 2012; KDOW 2013; VADEQ 2014) and are of particular concern for these species, which, as tertiary burrowers, rely on unembedded slab boulders for shelter.

Underground mining accounts for most of the coal excavated in the region, but since the 1970s, surface mining (including "mountaintop removal mining" or MTR) has become more prevalent. Mountaintop removal mining is differentiated from other mining techniques by the shear amount of overburden (*i.e.*, rock and other geologic material) that is removed to access the coal seams below and the use of "valley fills" to dispose of the overburden. This practice has occurred and continues to occur within the two species' ranges and results in the destruction of springs and headwater streams and can lead to water quality degradation in downstream reaches (USEPA 2011, pp. 7–10).

The best available data indicate that much of the residual erosion and sedimentation effects from surface coal mining are likely to continue indefinitely. The geology of the mountain ridges in the Appalachian Plateaus physiographic province makes them resistant to erosion. However surface coal mining, and especially MTR mining, breaks down this inherently erosion-resistant bedrock into unconsolidated "spoil" material that is much more vulnerable to erosional forces, especially flowing water. Through the removal of this stable bedrock material in order to access coal seams, and subsequent disposal of the unconsolidated mine spoil in adjacent valley fills, surface coal mining causes significant geomorphic disturbances with long-term consequences for the region's streams (Kite 2009, pp. 4, 6–9).

The legacy effects of surface coal mining persist long after active mining ceases. While post-Surface Mining Control and Reclamation Act of 1977 (SMCRA) mine reclamation techniques help reduce erosion following mine closure, especially as compared to pre-SMCRA conditions, comparisons of recently mined and reclaimed watersheds to unmined watersheds indicate streams below reclaimed MTR sites can be unstable (Fox 2009, pp. 1286–1287; Jaeger 2015, pp. 30–32). For example, research indicates that after surface coal mining reclamation is complete, the altered geomorphology and hydrology in the watershed causes streams to adjust to these new conditions (Fox 2009, pp. 1286–1287). This adjustment process includes streambank erosion that contributes sediments to streams downstream of the mined watersheds. Other indicators of unstable streams downstream of mined sites include increased maximum stream depth, changes in stream profile, more exposed bedrock, and increased frequency of fine sediment loads (Jaeger 2015, pp. 30–32).

The sedimentation effects from stream instability differ from site to site, and there is uncertainty as to the time required for streams to reach a new equilibrium after surface mining ends. Additionally, numerous failures (*i.e.*, major erosion events) of reclaimed slopes have been observed following heavy rainfall events, and the long-term durability of reclaimed mine land in the absence of active reclamation maintenance has not been tested (Kite 2009, pp. 6–7). The historical effects of pre-SMCRA mining continue to cause stream instability and sedimentation throughout the Appalachian coalfields (Kite 2009, p. 9; Witt 2015, entire). In 2015, the Virginia Department of Mines, Minerals, and Energy reported a series of debris slides and flows originating from mine spoils associated with abandoned, pre-1981, coal mines. One of these debris flows in the Upper Levisa basin inundated an area of approximately 8,100 square meters (m^2) (0.8 hectares (ha)) (2 acres (ac)) and was "actively shedding mud and fine debris" into a headwater tributary, which then caused sedimentation in an amount sufficient to obstruct flow in a downstream tributary of Elkins Branch (Witt 2015, entire).

Of particular concern to the Guyandotte River crayfish are several active surface coal mines in the Pinnacle Creek watershed that may pose an immediate threat to the continued existence of that subpopulation, one of only two known to exist. These mines are located either on Pinnacle Creek (*e.g.*, encroaching to within 0.5 kilometers (km) (0.31 miles (mi)) of the creek) and directly upstream (*e.g.*, within 7.0 km (4.4 mi)) of the Guyandotte River crayfish occurrence locations or on tributaries that drain into Pinnacle Creek upstream of the occurrence locations (WVDEP 2014a; WVDEP 2014b; WVDEP 2014c; WVDEP 2014d). Some of these mines have reported violations related to mandatory erosion and sediment control measures (*e.g.*, 3 to 37 violations) within the last 3 years (WVDEP 2014a; WVDEP 2014b; WVDEP 2014d).

Historically, coal mining has been ubiquitous within the ranges of both the Big Sandy and Guyandotte River crayfishes. While coal extraction from the southern Appalachian region has declined from the historical highs of the 20th century, and is unlikely to ever return to those levels (Milici and Dennen 2009, pp. 9–10; McIlmoil *et al.* 2013, pp. 1–8, 49–57), significant mining still occurs within the ranges of both species. The U.S. Department of Energy (2013, table 2) reports that in 2012, there were 192 active coal mines (119 underground mines and 73 surface mines) in the counties that constitute the core ranges of the Big Sandy and Guyandotte River crayfishes. Because of the scale of historical coal mining in the region and the magnitude of the geomorphological changes in mined areas, we conclude that the erosion and sedimentation effects of coal mining will continue indefinitely.

Forestry

The dominant land cover within the ranges of the Big Sandy and Guyandotte River crayfishes is forest. Commercial timber harvesting occurs throughout the region and, especially in areas directly adjacent to, or on the steep slopes above, streams and rivers, has the potential to degrade aquatic habitats, primarily by increasing erosion and sedimentation (Arthur *et al.* 1998, entire; Stone and Wallace 1998, entire; Stringer and Hilpp 2001, entire; Swank *et al.* 2001, entire; Hood *et al.* 2002, entire). Based on the best available data (Cooper *et al.* 2011a, p. 27; Cooper *et al.* 2011b, pp. 26–27; Piva and Cook 2011, p. 46), we estimate that within the ranges of the Big Sandy and Guyandotte River crayfishes, approximately 12,600 ha (30,745 ac) of forest are harvested annually, representing approximately 1.9 percent of the total forest cover within this area.

Erosion rates from logged sites in the mountainous terrain of the southern Appalachians are significantly higher than from undisturbed forest sites (Hood *et al.* 2002, entire). Applying the erosion rates from Hood *et al.* (2002, entire) to the estimated harvested area above indicates that timber harvesting within the ranges of the Big Sandy and Guyandotte River crayfishes could produce 67,158 to 149,436 tonnes (73,173 to 162,641 tons) of sediment annually, as compared to an estimated 5,922 tonnes (6,456 tons) of sediment from undisturbed forest of the same area. Hood *et al.* (2002, p. 54) provide the caveat that the model they used does not account for additional erosion associated with forest disturbance, such as gully erosion, landslides, soil creep, stream channel erosion, or episodic erosion from single storms, and therefore, their estimates of actual sediment transport are low. Therefore, our analysis of potential erosion within the ranges of the two species likely underestimates actual erosion rates.

Forestry "best management practices" (BMPs) are designed to reduce the amount of erosion at logging sites, however the rates of BMP adherence and effectiveness at logging sites within the ranges of the Big Sandy and Guyandotte River crayfishes vary. The best available data indicate that BMP implementation rates in the region range from about 80 to 90 percent; however, we could not locate current data on the actual efficacy of BMPs in the steep terrain that characterizes Big Sandy and Upper Guyandotte River basins. Additionally, the implementation of forestry BMPs is not required for certain timber cutting operations. For example, in Kentucky, tree clearing incidental to preparing coal mining sites is specifically exempted, and in West Virginia, tree-clearing activities incidental to ground-disturbing construction activities, including those related to oil and gas development, are exempted (Kentucky Division of Forestry undated fact sheet, downloaded February 5, 2015; West Virginia Division of Forestry 2014, pp. 3–4).

While Hood *et al.* (2002, entire) found that erosion rates improved quickly in subsequent years following logging, Swank, *et al.* (2001, pp. 174–176) studied the long-term effects of timber harvesting at a site in the Blue Ridge physiographic province in North Carolina, and determined that 15 years postharvest, the annual sediment yield was still 50 percent above predisturbance levels. While we do not have specific information on timber harvesting in areas directly adjacent to, or upslope from, streams historically occupied, currently occupied, or likely to be occupied by the Big Sandy or Guyandotte River crayfishes, we do know based on past practices that timber harvesting occurs year to year on a rotational basis throughout the Big Sandy and Upper Guyandotte watersheds. Excess sedimentation from timber harvested sites may take decades to flush from area streams. Based on the rotational nature of timber harvesting, we conclude that commercial timber harvesting in the region is likely relatively constant, ongoing, and likely to continue. We also conclude that timber harvesting, particularly when harvesters do not use sufficient erosion control measures, is likely to continually degrade the aquatic habitat required by the Big Sandy and Guyandotte River crayfishes.

Gas and Oil Development

The Appalachian Plateaus physiographic province is underlain by numerous geological formations that contain natural gas and, to a lesser extent, oil. The Marcellus shale formation underlies the entire range of the Guyandotte River crayfish and a high proportion of the range of the Big Sandy crayfish, specifically McDowell County, West Virginia, and part of Buchanan County, Virginia (U.S. Department of Energy (USDOE) 2011, p. 5), and various formations that make up the Devonian Big Sandy shale gas play (*e.g.*, a favorable geographic area that has been targeted for exploration) underlie the entire range of the Big Sandy crayfish and some of the range of the Guyandotte River crayfish (USDOE 2011, p. 9). In addition to these shale gas formations, natural gas also occurs in conventional formations and in coal seams (referred to as "coal bed methane" or CBM) in each of the counties making up the ranges of the two species. The intensity of resource extraction from these geological formations has varied over time depending on market conditions and available technology, but since the mid- to late 20th century, many thousands of gas and oil wells have been installed within the ranges of the Big Sandy and Guyandotte River crayfishes (Kentucky Geological Survey (KGS) 2015; Virginia Department of Mines, Minerals and

Energy (VDMME) 2015; West Virginia Department of Environmental Protection (WVDEP) 2015).

Numerous studies have reported that natural gas development has the potential to degrade aquatic habitats (Boelter *et al.* 1992, pp. 1192–1195; Adams *et al.* 2011, pp. 8–10, 18; Drohan and Brittingham, 2012, entire; McBroom *et al.* 2012, pp. 953–956; Olmstead *et al.* 2013, pp. 4966–4967; Papoulias and Velasco 2013, entire; Vidic *et al.* 2013, entire; Warner *et al.* 2013, entire; USEPA 2014, entire; Vegosh *et al.* 2014, pp. 8339–8342; Harkness *et al.* 2015, entire). The construction of well pads and related infrastructure (*e.g.*, gas pipelines, compressor stations, wastewater pipelines and impoundments, and access roads) can increase erosion and sedimentation, and the release of drilling fluids, other industrial chemicals, or formation brines can contaminate local streams.

Within the ranges of the Big Sandy and Guyandotte River crayfishes, the topography is rugged and the dominant land cover is forest; therefore, the construction of new gas wells and related infrastructure usually involves timber cutting and significant earth moving to create level well pads, access roads, and pipeline rights-of-way, all of which increases the potential for erosion. For example, Drohan and Brittingham (2012, entire) analyzed the runoff potential for shale gas development sites in the Allegheny Plateau region of Pennsylvania, and found that 50 to 70 percent of existing or permitted pad sites had medium to very high runoff potential and were at an elevated risk of soil erosion. McBroom *et al.* (2012, entire) studied soil erosion from two well pads constructed in a forested area in the Gulf Coastal Plain of east Texas and determined a significant increase in erosion from the well pads as compared to undisturbed forested sites. Based on this information, which represents the lower end of the potential risk given the less mountainous topography where these studies took place, it is reasonable to conclude that erosion from well sites within the ranges of the Big Sandy and Guyandotte River crayfishes is significantly higher than from undisturbed sites, especially when those sites do not use sufficient erosion control measures and are directly adjacent to, or upslope from, streams occupied or likely to be occupied by either species.

We anticipate the rate of oil and gas development within the ranges of the Big Sandy and Guyandotte River crayfishes to increase based on projections from a report by IHS Global, Inc. (2013, p. 4), produced for the American Petroleum Institute, which indicate that the "recent surge in oil and gas transportation and storage infrastructure investment is not a short lived phenomenon. Rather, we find that a sustained period of high levels of oil and gas infrastructure investment will continue through the end of the decade." While this projection is generalized across all oil and gas infrastructure within the United States, an increase of new infrastructure within the ranges of the Big Sandy and Guyandotte River crayfishes is also anticipated because of the yet untapped Marcellus and Devonian Big Sandy shale resources discussed above.

On- and Off-Road Transportation

Unpaved Roads—Unpaved forest roads (*e.g.*, haul roads, access roads, and skid trails constructed by the extractive industries or others) can degrade the aquatic habitat required by the Big Sandy and Guyandotte River crayfishes. In this region, these roads are often located on the steep hillsides and are recognized as a major source of sediment loading to streams and rivers (Greir *et al.* 1976, pp. 1–8; Stringer and Taylor 1998, entire; Clinton and Vose 2003, entire; Christopher and Visser 2007, pp. 22–24; MacDonald and Coe 2008, entire; Morris *et al.* 2014, entire; Wade *et al.* 2012, pp. 408–409; Wang *et al.* 2013, entire). In addition to erosion from unpaved road surfaces, unpaved road stream crossings can contribute significant sediment loading to local waters (Wang *et al.* 2013, entire). These unpaved roads and stream crossings, often associated with mining, forestry, and oil and gas activities, are ubiquitous throughout the range of the Big Sandy and Guyandotte River crayfishes. We anticipate the number of unpaved roads throughout the crayfishes' ranges to remain the same or expand as new oil and gas facilities are built, new areas are logged, and new off-road vehicle (ORV) trails are constructed.

Off-road Vehicles—Recreational ORV use contributes to the erosion and sedimentation problems associated with unpaved roads and stream crossings and has become increasingly popular in the region (see *http://www.riderplanet-usa.com,* last accessed March 1, 2016). Recreational ORV use, which includes the use of unimproved stream crossings, stream channel riding, and "mudding" (the intentional and repeated use of wet or low-lying trail sections that often results in the formation of deep "mud holes"), may cause increased sediment loading to streams and possibly kill benthic organisms directly by crushing them (Chin *et al.* 2004, entire; Ayala *et al.* 2005, entire; Christopher and Visser 2007, p. 24; YouTube.com 2008; YouTube.com 2010; YouTube.com 2011; Switalski and Jones 2012, pp. 14–15; YouTube.com 2013). Nearly all of the land within the ranges of the Big Sandy and Guyandotte River crayfishes is privately owned, and ORV use on private land is largely unregulated. We found no comprehensive information on the extent of off-road ridership or the effects to local streams. However, the Hatfield-McCoy Trail system, which was created in 2000 to promote tourism and economic development in southern West Virginia, may provide some insight into the scale of ORV recreation within the ranges of the Big Sandy and Guyandotte River crayfishes (Pardue *et al.* 2014, p. 1). As of 2014, the Hatfield-McCoy Trail system had eight individual trail networks totaling more than 1,127 km (700 mi) of cleared trails, with the stated long-term goal being approximately 3,219 km (2,000 mi) of accessible trails (Pardue *et al.* 2014, pp. 4–5), and in 2013, 35,900 trail permits were sold (Hatfield-McCoy presentation 2013, p. 8). Two of the designated Hatfield-McCoy trail networks, Pinnacle Creek and Rockhouse, are located in the Upper Guyandotte basin, and one, Buffalo Mountain, is in the Tug Fork basin.

The Pinnacle Creek Trail System, opened in 2004, is located entirely within the Pinnacle Creek watershed and may pose a significant threat to the continued existence of the Guyandotte River crayfish population in this stream. Approximately 13 km (8.0 mi) of the Pinnacle Creek trail is located in the riparian zone adjacent to the stream reach that currently harbors the Guyandotte River crayfish. At several locations along this section of trail, riders are known to operate their vehicles in the streambed or in adjacent "mud holes" (You Tube 2008; You Tube 2010; You Tube 2011; You Tube 2013; Loughman, pers. comm., October 24, 2014). It is reasonable to conclude that these activities increase erosion and sedimentation in Pinnacle Creek and degrade the habitat of the Guyandotte River crayfish. In addition, the instream operation of ORVs in Pinnacle Creek has the potential to crush or injure individual crayfish directly.

Road Construction—The construction of new roads also has the potential to further degrade the aquatic habitat in the region, primarily by increasing erosion and sedimentation, especially when the new roads do not use sufficient erosion control measures and are directly adjacent to, or upslope from, streams occupied or likely to be occupied by the Big Sandy crayfish or

Guyandotte River crayfish. In addition, roadways are also known to introduce contaminants to local streams (see "Water Quality Degradation," below). Two new, multi-lane highway projects totaling 330 km (205 mi), the King Coal Highway and the Coalfields Expressway, are in various stages of development within the Big Sandy and Upper Guyandotte River watersheds (VDOT 2015; West Virginia Department of Transportation (WVDOT) 2015a; WVDOT 2015b) (see figure 5, below). In West Virginia, the King Coal Highway right-of-way runs along the McDowell and Wyoming County line, the dividing line between the Tug Fork and Upper Guyandotte watersheds, and continues into Mingo County (which is largely in the Tug Fork watershed). This highway project will potentially affect the current occupied habitat of both crayfish species, but is of particular concern for the Guyandotte River crayfish because of a section that will parallel and cross Pinnacle Creek, one of two known locations for the species.

In West Virginia, the Coalfields Expressway right-of-way crosses Wyoming and McDowell Counties roughly perpendicular to the King Coal Highway and continues into Buchanan, Dickenson, and Wise Counties, Virginia (see figure 5, below). This project runs through the Upper Guyandotte, Tug Fork, Levisa Fork, and Russell Fork watersheds and has the potential to affect the aquatic habitats in each basin. Of particular concern are sections of the Coalfields Expressway planned through perhaps the most robust Big Sandy crayfish populations in Dickenson County, Virginia, especially when those populations are directly adjacent to, or downslope from, the construction sites and if those construction sites do not use sufficient erosion control measures.

Both highways will also have a yet undetermined number of feeder roads connecting completed segments to other existing roadways. Some of these feeder roads will further bisect the two species' ranges and will likely be a source of additional sedimentation, especially if these roads do not use sufficient erosion control measures and are directly adjacent to, or upslope from, streams occupied or likely to be occupied by the Big Sandy crayfish or Guyandotte River crayfish. Because the highways are being built in phases when funding is available, the original planned completion schedule of approximately 2018 has been delayed, and we anticipate construction will continue until approximately 2030 (see *http://www.wvkingcoal.com/; http://www.virginiadot.org/projects/bristol/route_121.asp; http://www.transportation.wv.gov/highways/highways-projects/coalfieldsexpressway/,* last accessed March 3, 2016).

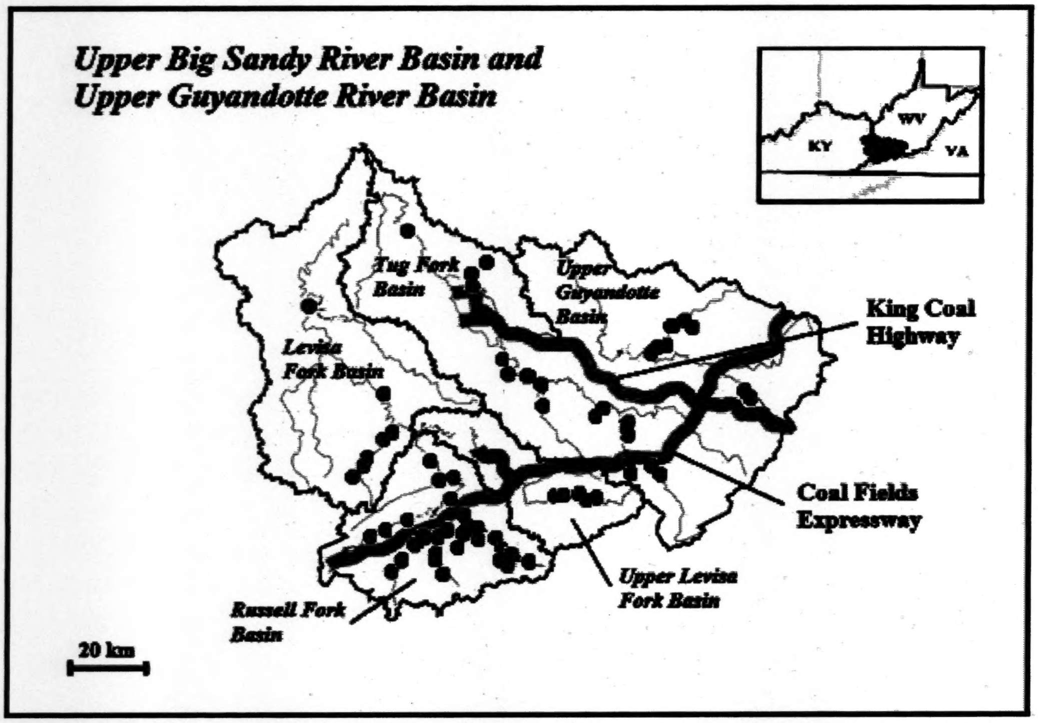

Figure 5. New highway corridors in the upper Big Sandy and Upper Guyandotte River basins. Highway corridors indicated by gray shading, black circles indicate current (2006 to 2015) Big Sandy crayfish or Guyandotte River crayfish occurrence locations.

Instream Construction—Since 2009, the VDGIF has requested companies or other agencies undertaking construction activities (*e.g.*, pipeline stream crossings, bridge replacements, bank stabilization work) in or adjacent to known or suspected Big Sandy crayfish streams to conduct crayfish surveys prior to any construction activities (Brian Watson, VDGIF 2016, pers. comm.; Va. Code sec. 29.1–563 to 570). If the species is discovered within the construction area, agencies are required to capture and relocate Big Sandy crayfish to suitable habitats outside of the affected area, typically upstream of the disturbance. While these efforts likely afford individual crayfish protection from the direct effects of the construction activities, it is unknown if relocated crayfish survive and successfully establish in their new locations.

Data indicate that between 2009 and 2015, 12 projects were conducted in the Russell Fork and upper Levisa Fork subwatersheds of Virginia that involved the potential relocation of Big Sandy crayfish (Appalachian Energy 2009; ATS 2009, entire; ATS 2010, entire; D.R. Allen and Associates 2010, entire; Vanasse Hangen Brustlin, Inc. 2011, entire; ATS 2012a, entire; ATS 2012b, entire; VDOT 2014a, entire; VDOT 2014b, entire; VDOT 2014c, entire; VDOT 2014d, entire; VDOT 2015, entire). While these data indicate instream projects occur within the range of the Big Sandy crayfish, we do not have any information on the total number of instream projects within the Kentucky or West Virginia areas of the species' range, nor do we have this information for the Guyandotte River crayfish, because the two crayfish are not State-listed species in Kentucky or West Virginia (see further discussion below under *Factor D*). However, existing pipelines, bridges, and culverts have scheduled maintenance and replacement schedules, in addition to ad hoc work when those structures are damaged. While we do not have information to project the scope and magnitude of new instream projects within the two species' ranges, the maintenance and repair activities of existing infrastructure are expected to continue indefinitely.

Summary of On- and Off-Road Transportation—We conclude that erosion and sedimentation from unpaved roads and trails, ORV use, road construction projects, and potential injury resulting from instream construction projects within the ranges of the Big Sandy and Guyandotte River crayfishes are ongoing threats to each species.

Residential/Commercial Development and Associated Stream Modifications

Residential and Commercial Development—Because of the rugged topography within the ranges of the Big Sandy and the Guyandotte River crayfishes, most residential and commercial development and the supporting transportation infrastructure is confined to the narrow valley floodplains (Ehlke *et al.* 1982, p. 14; Kiesler *et al.* 1983, p. 14). The close proximity of this development to the region's streams and rivers has historically resulted in the loss of riparian habitat and the continued direct discharge of sediments, chemical pollutants, sewage, and other refuse into the aquatic systems (WVDEP 2012, entire; KDOW 2013, entire; VADEQ 2014, entire), which degrades habitat quality and complexity (Merriam *et al.* 2011, p. 415). The best available data indicate that the human population in these areas will continue to decrease over the next several decades (University of Louisville 2011, entire; University of Virginia 2012, entire; West Virginia University 2012, entire). However, while the human populations may decline, the human population centers are likely to remain in the riparian valleys.

Stream Channelization and Dredging—Flooding is a recurring problem for people living in the southern Appalachians, and many individuals and mountain communities have resorted to unpermitted stream dredging or bulldozing to deepen channels and/or remove obstructions in an attempt to alleviate damage from future floods (West Virginia Conservation Agency (WVCA), pp. 4, 36–38, 225–229). In fact, as recently as 2009, Loughman (pers. comm., October 24, 2014) observed heavy equipment being operated in stream channels in the Upper Guyandotte basin. Unfortunately, these unpermitted efforts are rarely effective at reducing major flood damage and often cause other problems such as streambank erosion, lateral stream migration, channel downcutting, and sedimentation (WVCA, pp. 225–229). Stream dredging or bulldozing also causes direct damage to the aquatic habitat by removing benthic structure, such as slab boulders, and likely kills benthic organisms by crushing or burial. Because these dredging and bulldozing activities are unpermitted, we have little data on exactly how widespread or how often they occur within the ranges of the Big Sandy or Guyandotte River crayfishes. However, during their 2009 survey work for *Cambarus veteranus* in the Upper Guyandotte and Tug Fork basins, Loughman and Welsh (2013, p. 23) noted that 54 percent of the sites they surveyed (these were sites predicted to be suitable to the species) appeared to have been dredged, evidenced by monotypic gravel or cobble bottoms and a conspicuous absence of large slab boulders. These sites were thus rendered unsuitable for occupation by *C. veteranus* and confirmed so by the absence of the species.

Stream Channel Instability—Under the Factor A discussion in the April 7, 2015, proposed rule (80 FR 18710, pp. 18722–18731), we discussed multiple activities that increase erosion and sedimentation within the ranges of the Big Sandy and Guyandotte River crayfishes. Under the *Stream channelization and dredging* category, we stated that channel modification for flood control activities can cause streambank erosion, lateral stream migration, channel downcutting, and sedimentation (80 FR 18710, p. 18730). However, such "stream instability" concerns can also be caused by stream modifications associated with residential and commercial development activities and by the large-scale topographic alterations resulting from surface coal mining.

As noted above, within the ranges of the Big Sandy and Guyandotte River crayfishes, most development occurs adjacent to streams and rivers within the narrow valleys and can alter the local hydrology and lead to increased erosion and sedimentation from disturbed land surfaces (80 FR 18710, pp. 18723–18724, 18728; April 7, 2015). Because human infrastructure and streams are in close proximity to each other, streams are often realigned and/or channelized to increase the amount of usable land area or to protect existing structures through the aforementioned flood control. These modifications, such as straightening, dredging, and armoring stream channels, increases stream flow velocities, or stream energy, and often leads to increased bed and bank erosion either in the modified stream reach or in downstream reaches (Keller 1978, pp. 119, 124–125; Brooker 1985, p. 1; Edwards *et al.* 2015, p. 67). Because these types of historical channel modifications are common in both watersheds, the total continual sediment contribution from unstable channels is likely considerable (Loughman and Welsh 2013, p. 23; WVCA undated, pp. 227–231). For example, a proposed stream restoration project on the Cranes Nest River (Russell Fork basin) estimated that approximately 3,530 ft (1.1 km) of historical stream channelization and resultant bank erosion at a small homestead annually contributes 140 tons of excess sediment to the Cranes Nest River (U.S. Department of Transportation 2015, entire). In addition, documentation from the 2015 Big Sandy crayfish surveys indicate that Prater Creek in the Lower Levisa Fork of Kentucky show incised and eroding streambanks, and at least 23 surveyed sites in the Levisa Fork, as well as in Pigeon Creek of the Tug Fork, were reported to have visible bank erosion (Loughman 2015a, entire).

Summary of Residential/Commercial Development and Associated Stream Modification—We conclude that stream channel instability caused by historical stream channel modifications associated with human development is a source of sediments in the streams and rivers within the range of the Big Sandy and Guyandotte River crayfishes. Because of the presumed permanence of human-occupied areas, we conclude that these effects will continue indefinitely.

Water Quality Degradation

While the best available data indicate that erosion and sedimentation leading to stream substrate embeddedness is the primary threat to both the Big Sandy and Guyandotte River crayfishes, other pollutants also degrade the streams and rivers within the ranges of these species and likely contributed to their decline and continued reduced distribution and abundance. As described in the April 7, 2015, proposed rule, the best available data indicate widespread water quality problems throughout the Big Sandy River basin and the Upper Guyandotte River basin (USEPA 2004, entire; WVDEP 2012, pp. 32–33; KDOW 2013, appendix E; VADEQ 2014, pp. 1098–1124). The pollutants commonly cited are metals (*e.g.*, selenium) and pH impairments associated with coal mining and bacteria related to sewage discharges. The response of aquatic species to these and other pollutants are often observed as a shift in a stream's macroinvertebrate (*e.g.*, insect larva or nymphs, aquatic worms, snails, clams, crayfish) or fish community structure and resultant loss of sensitive taxa and an increase in tolerant taxa (Diamond and Serveiss 2001, pp. 4714–4717; Hartman *et al.* 2005, pp. 96–97; Hitt and Chambers 2014, entire; Lindberg *et al.* 2011b, p. 1; Matter and Ney 1981, pp. 66–67; Pond *et al.* 2008).

Mining-related Issues—High salinity, caused by increased concentrations of sulfate, calcium, and other ions associated with coal mining runoff, is a widespread problem in Appalachian streams (USEPA 2011a, pp. 35–38). A study of crayfish distributions in the heavily mined upper Kanawha River basin in southern West Virginia did not determine a relationship between conductivity levels (a measure of salinity) and the presence or absence of the species studied (Welsh and Loughman 2014, entire). However the author's noted that stream conductivity levels can vary seasonally or with flow conditions, making assumptions regarding species' presence or absence at the time of surveys difficult to correlate with prior ephemeral conductivity conditions. In 2015, Service-funded crayfish surveys in the Big Sandy and Upper Guyandotte River basins determined electrical conductivity levels at each survey site (n=225) (Loughman 2015a, entire; Loughman 2015b; entire). While these studies found no correlation between high conductivity levels and the absence of the Big Sandy crayfish and a statistically weak correlation for the Guyandotte River crayfish, we note that 90 percent (n=139) of the sites in the Big Sandy River basin and 86 percent (n=61) of the sites in the Upper Guyandotte River basin exceeded the USEPA's freshwater aquatic life benchmark for conductivity, which is a level intended to protect aquatic life specifically in Appalachian streams and rivers (USEPA 2011a, p. xv).

Species presence/absence may be a poor measure for assessing the potential for high salinity levels (measured as conductivity) to affect the Big Sandy and Guyandotte River crayfishes. The studies described above provide no data on potential sublethal effects (*e.g.*, reduced reproductive success, physiological stress, reduced fitness) or the potential lethal effects to the species at various life stages (*e.g.*, juvenile survival, survival during ecdysis (molting, a particularly vulnerable stage in the animal's lifecycle)). The potential for high conductivity levels to be associated with these more subtle effects is supported by an Ohio study using juvenile Appalachian brook crayfish (*Cambarus bartonii cavatus*), a stream-dwelling species in the same genus as the Big Sandy and Guyandotte River crayfishes. This study found that high conductivity levels during ecdysis caused the crayfish difficulties in completing their molt, with subsequent increased mortality (Gallaway and Hummon 1991, pp. 168–170).

Based on the best available data, we conclude that elevated conductivity levels, which are common throughout the Big Sandy and Upper Guyadotte River basins, may cause physiological stress in the Big Sandy and Guyandotte River crayfishes. This stress may result in subtle, perhaps sublethal, effects that contribute to the decline and continued poor distribution and abundance of these species.

Other common byproducts of coal mining, such as dissolved manganese and iron, may also affect the Big Sandy and Guyandotte River crayfishes. Manganese and iron can be absorbed by crayfish through gill respiration or ingestion and may cause sublethal effects such as reduced reproductive capacity (Baden and Eriksson 2006, p. 73). Iron and manganese also physically bond to crayfish exoskeletons, which may interfere with crayfish sensory sensila (*e.g.*, receptors) (Loughman 2014, p. 27). While manganese encrustations have been found on both Guyandotte River and Big Sandy crayfish specimens, we are uncertain the extent to which these deposits occur across the species' ranges or if and to what extent the effects of the manganese and iron exposure has contributed to the decline of the Big Sandy or Guyandotte River crayfishes.

Ancillary to the coal mines are the processing facilities that use various mechanical and hydraulic techniques to separate the coal from rock and other geological waste material. This process results in the creation of large volumes of "coal slurry," a blend of water, coal fines, and sand, silt, and clay particles, which is commonly disposed of in large impoundments created in the valleys near the coal mines. In multiple instances, these impoundments have failed catastrophically and caused substantial damage to downstream aquatic habitats (and in some cases the loss of human life) (Michalek *et al.* 1997, entire; Frey *et al.* 2001, entire; National Academy of Sciences (NAS) 2002, pp. 23–30; Michael *et al.* 2010, entire). In 2000, a coal slurry impoundment in the Tug Fork watershed failed and released approximately 946 million liters (250 million gallons) of viscous coal slurry to several tributary creeks of the Tug Fork, which ultimately affected 177.5 km (110.3 mi) of stream length, including the Tug Fork and Levisa Fork mainstems (Frey *et al.* 2001, entire). The authors reported a complete fish kill in 92.8 km (57.7 mi) of stream length, and based on their description of the instream conditions following the event, it is reasonable to conclude that all aquatic life in these streams was killed, including individuals of the Big Sandy crayfish, if they were present at that time. Coal slurry impoundments are common throughout the ranges of the Big Sandy and Guyandotte River crayfishes, and releases have been documented in each of the States within these ranges (NAS 2002, pp. 25–30).

Natural Gas Development—Natural gas well drilling and well stimulation, especially the technique of hydraulic fracturing, can also degrade aquatic habitats when drilling fluids or other associated chemicals or high salinity formation waters (*e.g.*, flowback water and produced water) are released, either intentionally or by accident, into local surface waters (McBroom *et al.* 2012, p. 951; Papoulias and Velasco 2013, entire; Vidic *et al.* 2013, entire; Warner *et al.* 2013, entire; USEPA 2014, entire; Harkness *et al.* 2015, entire). As described above, the intensity of oil and gas development is expected to increase throughout the species' ranges, which increases the risk of spills of contaminants and degradation of the species' habitat.

Highway Runoff—Paved roads, coincident with and connecting areas of residential and commercial development, generally occur in the narrow valley bottoms adjacent to the region's streams and rivers. Runoff from these paved roads can include a complex mixture of metals, organic chemicals, deicers, nutrients, pesticides and herbicides, and sediments that, when washed into local streams, can degrade the aquatic habitat and have a detrimental effect on resident organisms (Boxall and Maltby 1997, entire; Buckler and Granato 1999, entire; NAS 2005, pp. 72–75, 82–86). We are not aware of any studies specific to the effects of highway runoff on the Big Sandy or Guyandotte River crayfishes; however, one laboratory study from Khan *et al.* (2006, pp. 515–519) evaluated the effects of cadmium, copper, lead, and zinc exposure on juvenile *Orconectes immunis,* a species of pond crayfish. These particular metals, which are known constituents of highway runoff (Sansalone *et al.* 1996, p. 371), were found to inhibit oxygen consumption in *O. immunis.* We are uncertain to what extent these results may be comparable to how Big Sandy or Guyandotte River crayfishes may react to these contaminants, but it was the only relevant study exploring the topic in crayfish. Boxall and Maltby (1997, pp. 14–15) studied the effects of roadway contaminants (specifically the polycyclic aromatic hydrocarbons or PAHs) on *Gammarus pulex,* a freshwater amphipod crustacean commonly used in toxicity studies. The authors noted an acute toxic response to some of the PAHs, and emphasized that because of possible interactions between the various runoff contaminants, including deicing salts and herbicides, the toxicity of road runoff likely varies depending on the mixture. We are uncertain to what extent these results may be comparable to how Big Sandy or Guyandotte River crayfishes may react to these contaminants. However, as discussed above, the number of roads within the species' ranges is increasing, thus potentially increasing contaminated runoff into the species habitat.

Summary of Water Quality Degradation—The best available data indicate that water quality in much of the Big Sandy and Upper Guyandotte River basins is degraded from a variety of sources. While it is difficult to attribute the decline or general low abundance of the Big Sandy and Guyandotte River crayfishes to a specific contaminant, or combination of contaminants, it is likely that poor water quality is an ongoing stressor to both species throughout much of their existing range.

Dams

In the April 7, 2015, proposed rule (80 FR 18710, pp. 18732–18734), we discussed the effects of habitat fragmentation caused by dams and reservoirs within the ranges of the Big Sandy and Guyandotte River crayfishes. We did not, however, address the potential for dams to cause direct effects to the aquatic habitat, which was brought to our attention by a peer reviewer. The most obvious change caused by dam construction is the conversion of flowing riverine habitat to lacustrine (lake) habitat, thereby making it unsuitable for the Big Sandy or Guyandotte River crayfishes (see our response to Comment 2, above). Our analysis indicates that in the upper Big Sandy basin, the three major flood control dams created reservoirs that inundated approximately 89 km (55 mi) of riverine habitat. The Dewey Dam, in Floyd County, Kentucky, was built in 1949, and inundated 29 km (18 mi) of Johns Creek (in the Levisa Fork subwatershed). The Fishtrap Dam, in Pike County, Kentucky, was built in 1969, and inundated 27 km (16.5 mi) of the Levisa Fork. The Flannagan Dam in Dickenson County, Virginia, was built in 1964, and inundated an estimated 33 km (20.5 mi) of the Pound and Cranes Nest Rivers. In the Upper Guyandotte River basin, the R.D. Bailey Dam in Wyoming County, West Virginia, was built in 1980, and inundated approximately 13 km (8.1 mi) of the Guyandotte River. These estimates of altered habitat are conservative, as they do not include any tributary streams inundated or account for changes in stream geomorphology and flow conditions directly upstream of the reservoir pools or below the dams that likely also make these areas less suitable for either crayfish species. Additionally, numerous scientific studies note significant ecological and water quality changes downstream of dams, including increased or decreased water temperatures, lower dissolved oxygen concentrations, elevated levels of certain metals or nutrients, and shifts in fish and macroinvertebrate community structure (Power *et al.* 1996, entire; U.S. Army Corps of Engineers 1996, p. 12; Baxter 1997, pp. 271–274; Lessard and Hayes 2003, pp. 90–93; Arnwine *et al.* 2006, pp. 149–154; Hartfield 2010, pp. 43–44; Adams 2013, pp. 1324–1330).

Therefore, we conclude that the past construction of flood control dams within the ranges of the Big Sandy and Guyandotte River crayfishes not only fragmented the species' available habitat, but also caused a decrease in available habitat within their historical ranges. However, we consider the loss-of-habitat effect to be historical and to have already influenced the species' current distribution. The fragmentation effects are ongoing and contribute to the threat of small population sizes addressed below under *Factor E.*

Summary of Factor A

The best available data indicate that the primary threats to both the Big Sandy and Guyandotte River crayfishes throughout their respective ranges are land-disturbing activities that increase erosion and sedimentation, which degrades the stream habitat required by both species. Identified sources of ongoing erosion and sedimentation that occur throughout the ranges of the species include active surface coal mining, commercial forestry, unpaved roads, gas and oil development, road construction, and stream modifications that cause channel instability. These activities are ongoing (*e.g.,* imminent) and expected to continue at variable rates into the future. For example, while active coal mining may decline, the legacy effects will continue, and oil and gas activities and road construction are expected to increase. An additional threat specific to the Guyandotte River crayfish is the ongoing operation of ORVs in and adjacent to one of only two known locations for the species; this ORV use is expected to continue.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

In the April 7, 2015, proposed rule, we found no information indicating that overutilization has led to the loss of populations or a significant reduction in numbers of individuals for either the Big Sandy crayfish or Guyandotte River crayfish. No new information from peer review or public comments indicates that overutilization is a concern for either of these species. In addition, when this final listing becomes effective (see DATES, above), research and collection of these species will be regulated through scientific permits issued under section 10(a)(1)(A) of the Act.

Factor C. Disease or Predation

In the April 7, 2015, proposed rule, we found no information indicating that disease or predation has led to the loss of populations or a significant reduction in numbers of individuals of the Big Sandy crayfish or Guyandotte River crayfish. No new information from peer review or public comments indicates that disease or predation is a concern for either of these species.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

Few existing Federal or State regulatory mechanisms specifically protect the Big Sandy or Guyandotte River crayfishes or the aquatic habitats where they occur. The species' habitats are afforded some protection from water quality and habitat degradation under the Federal Clean Water Act (CWA) (33 U.S.C. 1251 *et seq.*) and the SMCRA (30 U.S.C. 1201 *et seq.*), along with State laws and regulations such as the Kentucky regulations for water quality, coal mining, forest conservation, and natural gas development (401 KAR, 402 KAR, 405 KAR, 805 KAR); the Virginia State Water Control Law (Va. Code sec. 62.1–44.2 *et seq.*); and the West Virginia Water Pollution Control Act (WVSC sec. 22–11) and Logging and Sediment Control Act (WVSC sec. 19–1B). Additionally, the Big Sandy crayfish is listed as endangered by the State of Virginia (Va. Code sec. 29.1–563 to 570), which provides that species some direct protection within the Virginia portion of its range. However, while water quality has generally improved since 1977, when the CWA and SMCRA were enacted or amended, there is continuing, ongoing degradation of habitat for both species, as detailed in the proposed rule (80 FR 18710; April 7, 2015) and under the Factor A discussion, above. Therefore, despite the protections afforded by these laws and implementing regulations, both the Big Sandy and Guyandotte River crayfishes continue to be affected by degraded water quality and habitat conditions.

In 1989, 12 years after enactment of the CWA and SMCRA, the Guyandotte River crayfish was known to occur in low numbers in Huff Creek and Pinnacle Creek (Jezerinac *et al.* 1995, p. 170). However, surveys since 2002 indicate the species has been extirpated from Huff Creek and continues to be found only in low numbers in Pinnacle Creek. Despite more than 35 years of CWA and SMCRA regulatory protection, the range of the Guyandotte River crayfish has declined substantially, and the two known populations contain small numbers of individuals (see Loughman 2015b, entire). Information about the Big Sandy crayfish indicates that the species' current range is reduced from its historical range (see Loughman 2015a, entire), and, as discussed above, that much of the historical habitat continues to be degraded by sediments and other pollutants. In addition, at many of the sites that do continue to harbor the species, the Big Sandy crayfish is generally found only in low numbers, with individual crayfish often reported to be in poor physical condition (Thoma 2010, p. 6; Loughman, pers. comm., October 24, 2014; Loughman 2015a, entire). Reduction in the range of the Big Sandy crayfish and continued degradation of its habitat lead us to conclude that neither the CWA nor the SMCRA has been adequate in protecting this species.

As discussed in the April 7, 2015, proposed rule (80 FR 18710) and in this rule, erosion and sedimentation caused by various land-disturbing activities, such as surface coal mining, roads, forestry, and oil and gas development, pose an ongoing threat to the Big Sandy and Guyandotte River crayfishes. State efforts to address excessive erosion and sedimentation involve the implementation of BMPs; however, as discussed in detail in the April 7, 2015, proposed rule (80 FR 18710) and under *Factor A,* above, BMPs are often not strictly applied, are sometimes voluntary, or are situationally ineffective. Additionally, studies indicate that, even when BMPs are properly applied and effective, erosion rates at disturbed sites are still significantly above erosion rates at undisturbed sites (Grant and Wolff 1991, p. 36; Hood *et al.* 2002, p. 56; Christopher and Visser 2007, pp. 22–24; McBroom *et al.* 2012, pp. 954–955; Wang *et al.* 2013, pp. 86–90).

Although the majority of the land throughout the ranges of the two species is privately owned, publicly managed lands in the region include a portion of the Jefferson National Forest in Virginia, and 10 State wildlife management areas and parks in the remainder of the Big Sandy and Upper Guyandotte watershed (1 in Russell Fork, 3 in Levisa Fork, 4 in Tug Fork, 2 in Upper Guyandotte). However, three of these parcels surround artificial reservoirs that are no longer suitable habitat for either the Big Sandy crayfish or Guyandotte River crayfish, and six others are not in known occupied crayfish habitat. Only the Jefferson National Forest and the Breaks Interstate Park in the Russell Fork watershed at the Kentucky/Virginia border appear to potentially offer additional protections to extant Big Sandy crayfish populations, presumably through stricter management of land-disturbing activities that cause erosion and sedimentation. However, the extent of publically owned land adding to the protection of the Big Sandy and Guyandotte River crayfishes is minimal and not sufficient to offset the rangewide threats to either species.

Summary of Factor D

Degradation of Big Sandy and Guyandotte River crayfish habitat (Factor A) is ongoing despite existing regulatory mechanisms. While these regulatory efforts have led to some improvements in water quality and aquatic habitat conditions, the declines of the Big Sandy and Guyandotte River crayfishes within most of their ranges have continued to occur. In addition, there are no existing regulatory mechanisms that address effects to the species associated with the species' endemism and their isolated and small population sizes, as well as the contributing stressor of climate change (discussed below under *Factor E*).

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

Locally Endemic, Isolated, and Small Population Size

It is intuitive and generally accepted that the key factors governing a species' risk of extinction include small population size, reduced habitat size, and fragmented habitat (Pimm *et al.* 1988, pp. 757, 774–777; Lande 1993, entire; Hakoyama *et al.* 2000, pp. 327, 334–336; Wiegand *et al.* 2005, entire). Relevant to wholly aquatic species, such as the Big Sandy and Guyandotte River crayfishes, Angermeier (1995, pp. 153–157) found that fish species that were limited by physiographic range or range of waterbody sizes were also more vulnerable to extirpation or extinction, especially as suitable habitats became more fragmented.

As detailed in this final rule and in the April 7, 2015, proposed rule (80 FR 18710), both the Big Sandy crayfish and the Guyandotte River crayfish are known to exist only in the Appalachian Plateaus physiographic province and are limited to certain stream classes and habitat types within their respective river basins. Furthermore, the extant populations of each species are limited to certain subwatersheds, which are physically isolated from the others by steep topography, stream distance, human-induced inhospitable intervening habitat conditions, and/or physical barriers (*e.g.,* dams and reservoirs).

Genetic Fitness

Species that are restricted in range and population size are more likely to suffer loss of genetic diversity due to genetic drift, potentially increasing their susceptibility to inbreeding depression, and reducing the fitness of individuals (Soule 1980, pp. 157–158; Hunter 2002, pp. 97–101; Allendorf and Luikart 2007, pp. 117–146). Similarly, the random loss of adaptive genes through genetic drift may limit the ability of the Big Sandy crayfish and, especially, the Guyandotte River crayfish to respond to changes in their environment such as the chronic sedimentation and water quality effects described above or catastrophic events (Noss and Cooperrider 1994, p. 61). Small population sizes and inhibited gene flow between populations may increase the likelihood of local extirpation (Gilpin and Soulé 1986, pp. 32–34). The long-term viability of a species is founded on the conservation of numerous local populations throughout its geographic range (Harris 1984, pp. 93–104). These separate populations are essential for the species to recover and adapt to environmental change (Harris 1984, pp. 93–104; Noss and Cooperrider 1994, pp. 264–297). The populations of the Big Sandy crayfish are isolated from other existing populations and known historical habitats by inhospitable stream conditions and dams that are barriers to crayfish movement. The current population of the Guyandotte River crayfish is restricted to two disjunct stream systems that are isolated from other known historical habitats by inhospitable stream conditions or by a dam. The level of isolation and the restricted ranges seen in each species make natural repopulation of historical habitats or other new areas following previous localized extirpations virtually impossible without human intervention.

Guyandotte River crayfish—As discussed previously, the historical range of the Guyandotte River crayfish has been greatly reduced. Based on the Guyandotte River crayfish's original distribution and the behavior of other similar stream-dwelling crayfish, it is reasonable to surmise that, prior to the widespread habitat degradation in the basin, individuals from the various occupied sites were free to move between sites or to colonize (or recolonize) suitable vacant sites (Momot 1966, entire; Kerby *et al.* 2005, pp. 407–408). Huff Creek, where the species was last noted in 1989 (Jezerinac *et al.* 1995, p. 170), is one of the few streams in the basin that still appears to maintain habitat conducive to the species (Loughman 2013, p. 9; Loughman 2015b, pp. 14–15). However, Huff Creek is physically isolated from the extant Clear Fork and Pinnacle Creek populations by the R.D. Bailey Dam on the Guyandotte River near the town of Justice, West Virginia. This physical barrier, as well as generally long distances of often marginal habitat between potentially suitable sites, makes it unlikely that individuals from the extant Clear Fork and Pinnacle Creek populations will successfully disperse to recolonize other locations in the basin.

Also, as noted in the April 7, 2015, proposed rule (80 FR 18710) and above under *Factor A,* the persistence of Pinnacle Creek subpopulation is exceptionally vulnerable to several proximate active surface coal mines and ORV use in the Pinnacle Creek watershed. This subpopulation lacks significant redundancy (*e.g.,* the ability of a species to withstand catastrophic events) and representation (*e.g.,* the ability of a species to adapt to changing environmental conditions), and has very little resiliency (*e.g.,* the ability of the species to withstand stochastic events); therefore, this small subpopulation is at an increased risk of extirpation from natural demographic or environmental stochasticity, a catastrophic event, or even a modest increase in any existing threat at the two known stream occurrences.

Big Sandy crayfish—Survey work demonstrates that the geographic extent of the Big Sandy crayfish's occupied habitat, in the context of the species' historical range, is reduced (Thoma 2009b, p. 10; Thoma 2010, p. 6; Loughman 2013, pp. 7–8; Loughman 2015a, entire). Additionally, these best available data indicate that, because of widespread habitat degradation, the species is notably absent from many individual streams where its presence would otherwise be expected, and at most sites where it does still persist, it is generally found in low numbers.

Because the Big Sandy crayfish is wholly aquatic and therefore limited in its ability to move from one location to another by the basin's complex hydrology, the species' overall distribution and abundance must be considered carefully when evaluating its risk of extinction. Prior to the significant habitat degradation that began in the late 1800s, the Big Sandy crayfish likely occurred in suitable stream habitat throughout its range (from the Levisa Fork/Tug Fork confluence to the headwater streams in the Russell Fork, Levisa Fork, and Tug Fork basins) (Thoma 2010, p. 6; Thoma *et al.* 2014, p. 549), and individuals were free to move between occupied sites or to colonize (or recolonize) suitable vacant sites. The current situation is quite different, with the species' occupied subwatersheds being isolated from each other, and from large areas of their unoccupied range (*e.g.,* the Johns Creek stream system), by linear distance (of downstream and upstream segments), inhospitable intervening habitat, dams, or a combination of these. Therefore, the status and risk of extirpation of each individual subpopulation must be considered in assessing the species' risk of extinction.

Based on habitat connectedness (or lack thereof), we consider there to be six existing Big Sandy crayfish subpopulations: lower Tug Fork population (Pigeon Creek), upper Tug Fork population, the Upper Levisa Fork population (Dismal Creek), the Russell Fork/Levisa Fork population (including Shelby Creek), the Pound River population, and the Cranes Nest River population (see figure 3, above). While the Pound River and Cranes Nest River are in the same subwatershed, they both flow into the Flannagan Reservoir, which is unsuitable habitat for the species (see our response to Comment 3, above). Therefore, the Big Sandy crayfish populations in these streams are not only isolated from other populations by the dam and reservoir, but also most likely isolated from each other by the inhospitable habitat in the reservoir itself (Loughman, pers. comm., December 1, 2014). Also, because the Fishtrap Dam physically isolates the upper Levisa Fork (Dismal Creek) population from the remainder of the species' range, only the Tug Fork and the Russell Fork/Levisa Fork subpopulations still maintain any possible connection.

There are two occurrences that are unlikely to represent viable subpopulations. One is an occurrence in the lower Levisa Fork mainstem near the town of Auxier, Kentucky. This site was last confirmed (a single Big Sandy crayfish was recovered) in 2009 (Thoma 2010, p. 6). This location is more than 50 km (31 mi) downstream of the nearest other occupied site. In 2009, eight other likely sites in the lower Levisa system were surveyed and found negative for the species, and in 2015, nine additional sites were surveyed and found negative in this area of the lower Levisa Fork subwatershed. Therefore, we conclude that the lower Levisa Fork system does not represent a viable subpopulation. However, because the exact site near Auxier, Kentucky, was not surveyed in 2015, and because the Big Sandy crayfish has an estimated lifespan of 7 to 10 years, and because we have no evidence that habitat conditions have changed, it is reasonable to conclude that this site may remain occupied. Secondly, in 2015, a new occurrence location was also reported in the lower Tug Fork mainstem, with two Big Sandy crayfish captured (one was described as "malformed") from an isolated boulder cluster (Loughman 2015a, p. 16). Because this site is 35 km (22 mi) downstream of the nearest other occupied location (Pigeon Creek) and 11 other lower Tug Fork sites were surveyed and found negative for the species, we do not consider this a viable subpopulation.

The six subpopulations differ in their resiliency. The upper Levisa Fork, Pound River, and Cranes Nest River populations generally persist in single stream reaches. While the species appears to be moderately abundant in these streams, the available CPUE data indicate that the species has declined in abundance in the Pound and Cranes Nest Rivers since 2007 (see table 3, above). The fact that they are restricted to single streams (versus a network of streams) makes them especially susceptible to catastrophic loss (*e.g.*, contaminant spill, stream dredging, or other perturbation). The lower Tug Fork population in the Pigeon Creek system also appears to be vulnerable, with the three occupied sites having a CPUE value of 1 Big Sandy crayfish per hour and relatively low stream system QHEI scores (mean 62, n = 9). The upper Tug Fork and the Russell Fork/Levisa Fork populations are perhaps more secure, with multiple streams being occupied. However, the available CPUE data indicate declines in abundance in several of these streams (see table 3, above).

This isolation, caused by habitat fragmentation, reduces the resiliency of the species by eliminating the potential movement of individuals from one subpopulation to another, or to unoccupied sites that could become habitable in the future. This inhibits gene flow in the species as a whole and will likely reduce the genetic diversity and perhaps the fitness of individuals in the remaining subpopulations. The individual subpopulations are also at an increased risk from catastrophic events such as spills or to stochastic decline.

Direct Mortality Due to Crushing

As discussed above under *Factor A*, ORV use of unpaved trails are a source of sedimentation into the aquatic habitats within the range of the Guyandotte River crayfish. In addition to this habitat degradation, there is the potential for direct crayfish mortality as a result of crushing when ORVs use stream crossings, or when they deviate from designated trails or run over slab boulders that the Guyandotte River crayfish use for shelter (Loughman 2014, pp. 30–31).

Interspecific Competition

A contributing factor to the imperilment of the habitat-specialist Big Sandy and Guyandotte River crayfishes may be increased interspecific competition brought about by habitat degradation (Loughman 2015a, pp. 42–43; Loughman 2015b, p. 36). Both the Big Sandy crayfish and the Guyandotte River crayfish are associated with faster moving water of riffles and runs with unembedded substrate, while other native species such as the spiny stream crayfish (*Orconectes cristavarius*) are typically associated with the lower velocity portions of streams and appear to be tolerant of higher levels of sedimentation. Because the lower velocity stream habitats suffer the effects of increased sedimentation and bottom embeddedness before the effects are manifested in the faster moving reaches, the native crayfish using these habitats likely migrated into the relatively less affected riffle and run habitats that are normally the niche of the Big Sandy or Guyandotte River crayfishes (Loughman 2014, pp. 32–33). In the ensuing competition between the habitat-specialist Big Sandy and Guyandotte River crayfishes and the more generalist species, the former are thought to be at a competitive disadvantage (Loughman 2015a, pp. 42–43; Loughman 2015b, p. 36). The 2015 survey data indicated generally that at degraded sites, species such as *O. cristavarius* were dominant, with the Big Sandy and Guyandotte River crayfish being absent or occurring in low numbers. However, at high-quality sites where either the Big Sandy or Guyandotte River crayfish were present, the other species were found in relatively low numbers.

Climate Change

The Intergovernmental Panel on Climate Change (IPCC) concluded that the evidence for warming of the global climate system is unequivocal (IPCC 2013, p. 3). Numerous long-term climate changes have been observed including changes in arctic temperatures and ice, widespread changes in precipitation amounts, ocean salinity, wind patterns, and aspects of extreme weather including droughts, heavy precipitation, heat waves, and the intensity of tropical cyclones (IPCC 2013, p. 4). The general climate trend for North America includes increases in mean annual temperatures and precipitation and the increased likelihood of extreme weather events by the mid-21st century (IPCC 2014, pp. 1452–1456). The U.S. National Climate Assessment predicts that over the next century, the eastern United States will experience: (1) An increase in the frequency, intensity, and duration of heat waves; (2) a decrease in the frequency, intensity, and duration of cold air outbreaks; (3) an increase in the frequency of heavy precipitation events; (4) an increase in the risk of seasonal droughts; and (5) an increase in the strength of tropical storms (Melillo *et al.* 2014, pp. 374, 398–399). The U.S. Geological Survey's and individual State's climate predictions support a finding that conditions within the ranges of both the Big Sandy and Guyandotte River crayfishes are expected to undergo significant temperature and precipitation changes by 2050 (Byers and Norris 2011, pp. 19–21; Kentucky's Comprehensive Wildlife Conservation Strategy (KCWCS) 2013, pp. 12–16; Kane *et al.* 2013, pp. 11–13; Alder and Hostetler 2014, entire).

An increasingly large body of scientific research indicates climate change poses a significant threat to a variety of species and ecosystems (Thomas, *et al.* 2004, entire; Byers and Norris 2011, pp. 7–17; Kane *et al.* 2013, pp. 14–48; KCWCS 2013, pp. 17–26; IPCC 2014, Chapter 4, entire), with freshwater ecosystems being considered especially vulnerable to the direct effects of climate change, such as altered thermal regimes and altered precipitation and flow regimes (IPCC 2014, pp. 312–314; McDonnell *et al.* 2015, pp. 14–16). As climate change alters freshwater ecosystems, aquatic species will either adapt to the new conditions, migrate to waters that maintain suitable conditions, or become locally extirpated. Species with small geographical ranges or those limited in their ability to disperse because of watershed boundaries and fragmented river networks (for example by dams and impoundments) may be particularly vulnerable to climate change (Eaton and Scheller 1996, p. 1113; Ficke *et al.* 2007, p. 602; Capinha *et al.* 2013, p. 732; Trumbo *et al.* 2014, pp. 182–185; McDonnell *et al.* 2015, pp. 2, 14–18).

Perhaps the most obvious and direct effect of climate change to the Big Sandy and Guyandotte River crayfishes is an increase in average ambient air temperature, which by 2050 is predicted to rise by 1.9 to 2.8 degrees Celsius (°C) (3.4 to 5.0 degrees Fahrenheit (°F)) within the ranges of these species (Byers and Norris 2011, p. 20; Alder and Hostetler 2013, entire; KCWCS 2013, p. 13). As ambient air temperatures increase, stream water temperatures are also expected to rise, although the precise relationship between air temperature and water temperature may vary based on a variety of factors, such as groundwater inflow, riparian vegetation, or precipitation rates (Webb and Nobilis 2007, pp. 82–84; Kaushal *et al.* 2010, pp. 464–465; Trumbo *et al.* 2014, pp. 178–185; McDonnell *et al.* 2015, pp. 12–18). We are unaware of information on the specific thermal tolerances of the Big Sandy or Guyandotte River crayfishes, but note that Loughman (2015a, p. 28; 2015b, p. 35) collected the former species in June, July, and September from waters that ranged from 19.0 to 27.3 °C (66.2 to 81.1 °F) with a mean temperature of 21.7 °C (71.1 °F), and he collected the latter species in May and June from waters that ranged from 14.9 to 23.0 °C (58.8 to 73.4 °F) with a mean of 19.7 °C (67.5 °F). These data and information on the thermal preferences of other stream-dwelling crayfishes indicate that the likely preferred temperature for the Big Sandy and Guyandotte River crayfishes is around 21 to 22 °C (71 to 72 °F) (Espina *et al.* 1993, pp. 37–38; Keller and Hazlett 2010, p. 619).

While crayfish are considered relatively tolerant to temperature fluctuations, data indicate that the upper incipient lethal temperature (the temperature at which 50 percent of the test organisms die) for stream-dwelling crayfish is about 29 to 32 °C (84 to 90 °F) (Becker *et al.* 1975, pp. 376–378; Mirenda and Dimock 1985, p. 255; Espina *et al.* 1993, p. 37); however, there may be significant variability in thermal tolerance depending on a species' geographic distribution and the size, sex, and reproductive status of individual crayfish (Becker *et al.* 1975, pp. 384–386). While important information, the upper lethal temperature limit is a poor measure by which to assess the potential for climate change to affect the Big Sandy and Guyandotte River crayfishes. Mirenda and Dimock (1985, p. 255) studied the acuminate crayfish (*Cambarus acuminatus*), a more generalist species native to the mid-Atlantic coastal plain. The authors noted that prolonged exposure (greater than 48 hours) to temperatures below that species' upper thermal limit (33 °C (91.4 °F)), but still within the zone of tolerance, could cause incapacitation or loss of condition sufficient to cause population-level effects to the species. A study of another stream species, the common crayfish (*Cambarus bartonii bartonii*), showed that its tolerance to acidic conditions decreased as temperatures approached the maximum thermal tolerance for the organism (DiStefano *et al.* 1991, pp. 1586–1589). Relatedly, drought conditions (and assumed temperature increases) in a north Georgia stream resulted in population declines and poor reproductive success in the generalist white tubercled crayfish (*Procambarus spiculifer*) (Taylor 1982, pp. 294–296). Therefore, based on the best available data, we conclude that as water temperatures increase above the Big Sandy and Guyandotte River crayfishes' assumed preferred temperature of 21 to 22 °C (71 to 72 °F) and approach the species' assumed maximum thermal threshold of 28 to 29 °C (82 to 84 °F), individual crayfish will likely suffer physiological stress, poor reproductive success, and perhaps increased mortality.

As temperature regimes within the range of the Big Sandy and Guyandotte River crayfishes begin to exceed their thermal optimum, it is likely that these species will attempt to adjust their ranges to locations that maintain favorable conditions. In general, ambient temperatures decrease with increasing elevation and/or latitude; therefore, we would expect these crayfishes to attempt to relocate to locations higher in elevation or higher in latitude (northerly direction in the northern hemisphere) (McDonnell *et al.* 2015, entire). However, because both the Big Sandy and Guyandotte River crayfishes are confined in latitude to their respective river basins, and because suitable habitats in the lower reaches of each river system are limited (primarily as a result of past environmental degradation), both species have already been largely restricted to the higher elevation streams within each river basin. Additionally, as discussed in the April 7, 2015, proposed rule (80 FR 18710, pp. 18732–18734), habitat fragmentation caused by dams and poor habitat conditions further restricts the movement of individual crayfish within their respective watersheds.

An independent assessment of the potential effects of climate change on the Big Sandy and Guyandotte River crayfishes was incorporated into an Appalachian climate change vulnerability index (Young *et al.,* 2015). This vulnerability index integrates a species' predicted exposure to climate change with three sets of factors associated with climate change sensitivity, each supported by published studies: (1) Indirect exposure to climate change, (2) species-specific sensitivity and adaptive capacity factors (including dispersal ability, temperature and precipitation sensitivity, physical habitat specificity, interspecific interactions, and genetic factors), and (3) documented response to climate change. The climate change vulnerability index ranked *Cambarus veteranus* "highly vulnerable," which is defined as "abundance and/or range extent within geographical area assessed likely to decrease significantly by 2050." We note that this vulnerability index was completed prior to the taxonomic split that described *C. callainus* and, therefore, assumed a single crayfish species with a geographic range that included both the Big Sandy River basin and the Upper Guyandotte River basin. It is probable that if the two species were re-evaluated separately, the reduced geographic range of each species would produce an increased climate change vulnerability score for either or both species.

The ranking of "highly vulnerable" for *Cambarus veteranus* produced by the vulnerability index is supported by two distribution models developed for stream crayfish in Europe. A study of the potential effects of climate change on the distribution of five relatively wide-ranging European crayfish species predicted that, by 2080, suitable accessible habitat for these species will decrease by 14 to 75 percent (Capinha *et al.* 2013, pp. 734–735). This study also indicated that the future distribution of native and nonnative crayfish species will lead to increased incidences of co-occurrence between these species with presumably negative consequences (Capinha *et al.* 2013, p. 738). Another European study evaluated the joint effects of climate change and the presence of an invasive crayfish on the distribution of another wide-ranging but endangered crayfish, the white-clawed crayfish (*Austropotamobius pallipes*) (per the International Union for Conservation of Nature "Red List" at *http://www.iucnredlist.org/details/2430/0*). This study predicted a range reduction for both species coupled with a decreased incidence of co-occurrence by 2050 (Gallardo and Aldridge 2013, pp. 230–231).

While uncertainty exists, the best available scientific data indicate that by about 2050, climate change will alter the ambient air temperature and precipitation regimes within the already limited ranges of both the Big Sandy and Guyandotte River crayfishes. Such alterations will increase the likelihood that streams will experience higher incidences of temperatures above the species' thermal optimum, perhaps approaching or exceeding their upper thermal limit. Because these species have little or no ability to migrate in response to increasing stream temperatures (or other climate change-induced perturbations), we conclude there is a likelihood that climate change will act as an ongoing stressor to each species.

Transportation Spills

There are numerous active freight rail lines in the Big Sandy and Upper Guyandotte River basins (Virginia Department of Rail and Public Transportation (VDRPT) 2013, p. 3–7; West Virginia Department of Transportation (WVDOT) 2013, p. 2–3; Kentucky Transportation Cabinet (KTC) 2015, p. 2–5). These lines were built primarily to haul locally-mined coal to outside markets, but data indicate a shift to more freight traffic through the region, crude oil shipments from Midwest shale oil fields to eastern refineries or ports, and increased rail traffic associated with shale gas development in West Virginia (VDRPT 2013, p. 5–14; WVDOT 2013, pp. 2–57–2–59; KTC 2015, pp. 2–23–2–24). Rail traffic in and through the region will likely vary in the short term as overall economic conditions fluctuate, but in the long term, rail traffic is expected to increase.

As described previously, because of the rugged topography of the region, these rail lines generally follow the mountain valleys and run immediately adjacent to streams and rivers, including those with current or historical records of Big Sandy and Guyandotte River crayfish occupation. This characteristic of the rail infrastructure increases the risk to aquatic habitats in the event of accidental spills of petroleum or other hazardous materials. Between 2003 and 2012, Virginia and West Virginia reported a Statewide average of 41 and 25 train accidents per year, respectively (VDRPT 2013, p. 3–36; WVDOT 2013, p. 2–30). We do not have fine-scale (*e.g.*, county-level) data on rail safety and note also that some categories of accidents are not required to be reported to the Federal Railroad Administration (FRA) (see *https://www.fra.dot.gov/Page/P0037*); therefore, accident risk is difficult to assess. However, several recent incidents in or near the Big Sandy River and Upper Guyandotte River basins illustrate the potential risk:

- On March 23, 2013, a derailment in Dickenson County, Virginia, left four train cars in the Russell Fork River (which is known to be occupied by the Big Sandy crayfish). One of the cars reportedly leaked propionic acid, but it was not reported whether any aquatic species were affected (Morabito 2013, entire).
- On December 27, 2013, 16 train cars derailed in McDowell County, West Virginia. At least one tank car reportedly ruptured and leaked "tar" into Elkhorn Creek (an upper Tug Fork tributary not known to be occupied by the Big Sandy crayfish). It was not reported whether any aquatic species were affected (Associated Press 2013, entire).
- On April 30, 2014, 15 crude oil tank cars derailed in Lynchburg, Virginia (approximately 180 km (112 mi) east of the Upper Guyandotte River and Big Sandy River basins). Three tank cars slid into the James River, and at least one car ruptured and released approximately 29,740 gallons of oil, most of which reportedly burned. It was not reported whether any aquatic species were affected (Roanoke Times 2014, entire; VADEQ 2015, entire).
- On March 5, 2015, a train locomotive struck a boulder in Dickenson County, Virginia, causing a rupture to the locomotive's fuel tank. No fuel reportedly reached the Russell Fork (Sorrell 2015, entire).
- On February 16, 2015, a train hauling crude oil derailed near Mount Carbon, West Virginia (approximately 43 km (27 mi) north of the Upper Guyandotte River basin), and 27 tank cars derailed. Approximately 378,000 gallons of crude oil were released during the incident, but it is unclear how much oil entered the Kanawha River (most of it apparently burned). It was not reported whether any aquatic species were affected (USEPA 2015, entire; FRA 2015, entire).

While the above reports do not indicate whether aquatic species were injured, a spill report from Pennsylvania did document mortality of aquatic invertebrates. On June 30, 2006, a derailment in McKeon County, Pennsylvania, resulted in three tank cars releasing 42,000 gallons of sodium hydroxide adjacent to Sinnemahoning Portage Creek. The resulting investigation determined that 63 to 98 percent of the aquatic invertebrates were estimated to be killed over 17.7 km (11.0 mi) of Sinnemahoning Portage Creek (Hartel 2006, p.18). While this report is from outside the ranges of the Big Sandy or Guyandotte River crayfishes, it is indicative of the scale of potential lethal injury that can result from transportation spills in areas where rail lines are in close proximity to streams and rivers.

Therefore, while there is uncertainty as to the likelihood or magnitude of effects of railroad accidents, based on the best available data regarding past events coupled with estimates of future rail traffic, we conclude that railroad accidents that result in the release of petroleum or other hazardous material into streams and rivers occupied by Big Sandy and Guyandotte River crayfish pose an ongoing risk to each species and that this risk is expected to stay the same or increase.

Summary of Factor E

The habitat of the Big Sandy and Guyandotte River crayfishes is highly fragmented, thereby isolating the remaining populations of each species from each other. The remaining individuals are generally found in low numbers at most locations where they still exist. The level of isolation and the restricted ranges seen in each species make natural repopulation of historical habitats or other new areas following previous localized extirpations highly improbable, or perhaps impossible, without human intervention. This reduction in redundancy and representation significantly impairs the resiliency of each species and poses a threat to their continued existence. In addition, direct mortality due to crushing may have a significant effect on the Guyandotte River crayfish. Interspecific competition from other native crayfish species that are more adapted to degraded stream conditions may also act as a contributing threat to both species, as might climate change.

Cumulative Effects From Factors A through E

Based on the risk factors described above, the Big Sandy crayfish and the Guyandotte River crayfish are at an increased risk of extinction primarily due to land-disturbing activities that increase erosion and sedimentation, and subsequently degrade the stream habitat required by both species (Factor A), and due to the effects of small population size (Factor E). Other contributing factors are degraded water quality and unpermitted stream dredging (Factor A). Additional likely contributing factors are competition from other crayfish, toxic spills, and climate change (Factor E). While events such as collection (Factor B) or disease and predation (Factor C) are not currently known to affect either species, any future incidences will further reduce the resiliency of the Guyandotte River and Big Sandy crayfishes.

Determination

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above factors, singly or in combination.

As discussed above, we have carefully assessed the best scientific and commercial information and data available regarding the past, present, and future threats to the Big Sandy crayfish and the Guyandotte River crayfish. The primary threat of rangewide habitat loss and degradation (Factor A) is occurring from land-disturbing activities that increase erosion and sedimentation, which degrades the stream habitat required by both species. Identified sources of ongoing erosion include active surface coal mining, commercial forestry, unstable stream channels, unpaved roads, gas and oil development, and road construction. An additional primary threat specific to the Guyandotte River crayfish is the operation of ORVs in and adjacent to Pinnacle Creek, one of only two known stream locations for the species.

Contributing threats to both species include water quality degradation (Factor A) resulting from abandoned coal mine drainage; untreated (or poorly treated) sewage discharges; road runoff; unpermitted stream dredging; and potential catastrophic spills of coal slurry, fluids associated with gas well development, or other contaminants. The effects of habitat loss have resulted in a significant range contraction for the Guyandotte River crayfish and a reduction in abundance and distribution within the fragmented range for both species, as evidenced by the results from multiple survey efforts. While the 2015 surveys did document two additional occurrences of the Big Sandy crayfish in the lower Tug Fork, those occurrences are isolated from other occurrences of the species. Occurrences of both species are correlated with higher quality habitat conditions that are fragmented by natural and human-mediated areas of lower quality habitat.

Despite the existing State wildlife laws and Federal regulations such as the CWA and SMCRA, habitat threats continue to effect these species (Factor D). Additionally, the habitat of the Big Sandy and Guyandotte River crayfishes is highly fragmented by natural and human-mediated conditions, thereby isolating the remaining populations of each species (Factor E) from each other. The remaining individuals are found in low numbers at most locations where they still exist; however, there are some occurrences of the Big Sandy crayfish in the Russell Fork with higher levels of documented individuals and catch-per-unit-effort (CPUE) results that are indicative of more robust populations. The two populations of the Guyandotte River crayfish have limited redundancy, with the Pinnacle Creek location being highly imperiled by ORV use and upstream mining operations, and significantly reduced representation. The level of isolation and the restricted range of each species make natural repopulation of historical habitats or other new areas following previous localized extirpations virtually impossible without human intervention. The reduction in redundancy and representation for each species impairs the Big Sandy crayfish's resiliency and significantly impairs the Guyandotte River crayfish's resiliency, and poses a threat to both species' continued existence. The interspecific competition (Factor E) from other native crayfish species (that are more adapted to degraded stream conditions) and climate change (Factor E) may act as additional stressors to the Big Sandy and Guyandotte River crayfishes. These Factor A and Factor E threats are rangewide and are not likely to be reduced in the future. Several of the Factor A and Factor E threats are likely to increase. For Factor A, these threats include oil and gas development and road construction, and for Factor E, these include extirpation and further isolation of populations. In combination, these ongoing and increasing threats are significant because they further restrict limited available habitat and decrease the resiliency of the Big Sandy crayfish and Guyandotte River crayfish within those habitats.

The Act defines an endangered species as any species that is "in danger of extinction throughout all or a significant portion of its range" and a threatened species as any species "that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future." As discussed above, we find that the Big Sandy crayfish is likely to become endangered in the foreseeable future throughout its entire range, and the Guyandotte River crayfish is in danger of extinction throughout its entire range based on the severity and immediacy of threats currently affecting these species.

For the Big Sandy crayfish, although the species still occupies sites located throughout the breadth of its historical range, the remaining sites are reduced to primarily the higher elevations within the watersheds; the remaining habitat and most populations are threatened by a variety of factors acting in combination to reduce the overall viability of the species. The risk of extinction is foreseeable because most of the remaining populations are small and isolated, and there is limited potential for recolonization.

For the Guyandotte River crayfish, the species has been reduced to two locations, and its habitat and population are threatened by a variety of factors acting in combination to create an imminent risk of extirpation of one of the locations, thereby reducing the overall viability of the species. The risk of extinction is high because the two populations are severely reduced and isolated, and have essentially no potential to be recolonized following extirpation.

Therefore, on the basis of the best available scientific and commercial information, we are listing the Big Sandy crayfish as a threatened species and the Guyandotte River crayfish as an endangered species in accordance with sections 3(6), 3(20), and 4(a)(1) of the Act. For the Guyandotte River crayfish, all of these factors combined lead us to conclude that the danger of extinction is high and immediate, thus warranting a determination as an endangered species rather than a threatened species. In contrast, for the Big Sandy crayfish, all of these factors combined lead us to conclude that the danger of extinction is foreseeable rather than immediate, thus warranting a determination as a threatened species.

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. Because we have determined that the Big Sandy crayfish and the Guyandotte River crayfish are threatened and endangered, respectively, throughout all of their ranges, no portion of their ranges can be "significant" for purposes of the definitions of "endangered species" and "threatened species." See the Final Policy on Interpretation of the Phrase "Significant Portion of Its Range" in the Endangered Species Act's Definitions of "Endangered Species" and "Threatened Species" (79 FR 37578; July 1, 2014).

Available Conservation Measures

Listing a species as endangered or threatened under the Act increases recognition by Federal, State, Tribal and local agencies; private organizations; and individuals that the species requires additional conservation measures. These measures include recovery actions, requirements for Federal protection, and prohibitions against certain practices. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and a final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review of when a species may be ready for downlisting or delisting, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from the Northeast Regional Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation, removal of sedimentation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because they may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands. We also recognize that for some species, measures needed to help achieve recovery may include some that are of a type, scope, or scale that is independent of land ownership status and beyond the control of cooperating landowners.

Following publication of this final listing rule, additional funding for recovery actions will be available from a variety of sources, including Federal budgets; State programs; and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of Kentucky, Virginia, and West Virginia will be eligible for Federal funds to implement management actions that promote the protection or recovery of the Big Sandy crayfish, and the State of West Virginia will be eligible for Federal funds to implement management actions that promote the protection or recovery of the Guyandotte River crayfish. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for the Big Sandy crayfish or the Guyandotte River crayfish. Additionally, we invite you to submit any new information on these species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the any endangered or threatened species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require consultation as described in the preceding paragraph include land management agencies such as the U.S. Forest Service or the Bureau of Land Management. Or a Federal agency may have regulatory oversight, such as the U.S. Army Corps of Engineers when a section 404 CWA permit is issued; the Office of Surface Mining, Reclamation, and Enforcement when a coal mining permit is issued or overseen; or the Federal Highway Administration when they assist with the funding or construction and maintenance of roads, bridges, or highways.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered and threatened wildlife. The prohibitions of section 9(a)(1) of the Act, codified at 50 CFR 17.21 for endangered wildlife and 50 CFR 17.31 for threatened wildlife, make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) endangered or threatened wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

Under section 4(d) of the Act, the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened species. As discussed in the previous paragraph, the general prohibitions and exceptions that apply to threatened wildlife will apply to the Big Sandy crayfish upon the effective date of this final rule (see **DATES**). However, we may revise these general prohibitions and exceptions as they apply to the Big Sandy crayfish by promulgating a species-specific rule under section 4(d) of the Act detailing the prohibitions and exceptions that are necessary and advisable for the conservation of the species. Therefore, we are investigating what specific prohibitions and exceptions to those prohibitions may be necessary and advisable for the Big Sandy crayfish's conservation and intend to publish, as appropriate, a proposed 4(d) rule for public review and comment in the future. Activities we are considering for potential exemption under a 4(d) rule include, but are not necessarily limited to, exceptions for (1) specific habitat restoration activities that will benefit the Big Sandy crayfish, and (2) sustainable forestry practices that primarily occur directly adjacent to, or upslope from, streams occupied or likely to be occupied by the Big Sandy crayfish and that are implemented according to well-defined and enforceable best management practices (*e.g.,* Sustainable Forestry Initiative or Forest Stewardship Council) or other such approved guidelines.

We may issue permits to carry out otherwise prohibited activities involving endangered or threatened wildlife under certain circumstances. Regulations governing permits for endangered species are codified at 50 CFR 17.22 and for threatened species at 50 CFR 17.32. With regard to endangered wildlife, a permit may be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the ranges of species we are listing. Based on the best available information, the following actions are unlikely to result in a violation of section 9, if these activities are carried out in accordance with existing regulations and permit requirements; this list is not comprehensive:

- Normal agricultural practices, such as herbicide and pesticide use, that are carried out in accordance with any existing regulations, permit and label requirements, and best management practices.

Based on the best available information, the following activities may potentially result in a violation of section 9 the Act; this list is not comprehensive:

(1) Unauthorized operation of motorized equipment in stream habitats such that the operation compacts the stream bottom habitat (*e.g.,* driving or riding an ORV in the stream), resulting in killing or injuring a Big Sandy crayfish or Guyandotte River crayfish.

(2) Unlawful destruction or alteration of the habitat of the Big Sandy crayfish or Guyandotte River crayfish (*e.g.,* unpermitted instream dredging, impoundment, water diversion or withdrawal, channelization, discharge of fill material) that impairs essential behaviors such as breeding, feeding, or sheltering, or that results in killing or injuring a Big Sandy crayfish or Guyandotte River crayfish.

(3) Unauthorized discharges or dumping of toxic chemicals or other pollutants into waters supporting the Big Sandy crayfish or Guyandotte River crayfish that kills or injures individuals, or otherwise impairs essential life-sustaining behaviors such as breeding, feeding, or finding shelter.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the appropriate office:

- Kentucky Ecological Services Field Office, 330 West Broadway, Suite 265, Frankfort, KY 40601; telephone (502) 695–0468; facsimile (502) 695–1024.
- Southwest Virginia Ecological Services Field Office, 330 Cummings Street, Abingdon, VA 24210; telephone (276) 623–1233; facsimile (276) 623–1185.
- West Virginia Field Office, 694 Beverly Pike, Elkins, WV 26241; telephone (304) 636–6586; facsimile (304) 636–7824.

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act, need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes.

We are not aware of any Big Sandy crayfish or Guyandotte River crayfish populations on tribal lands.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the Northeast Regional Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this rule are the staff members of the Northeast Regional Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by adding entries for "Crayfish, Big Sandy" and "Crayfish, Guyandotte River" to the List of Endangered and Threatened Wildlife in alphabetical order under CRUSTACEANS to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
CRUSTACEANS.							
*	*	*	*	*	*	*	
Crayfish, Big Sandy	*Cambarus callainus*	U.S.A. (KY, VA, WV)	Entire	T	864	NA	NA
*	*	*	*	*	*	*	
Crayfish, Guyandotte River	*Cambarus veteranus*	U.S.A. (WV)	Entire	E	865	NA	NA
*	*	*	*	*	*	*	

* * * * *

Dated: March 28, 2016.

James W. Kurth,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2016–07744 Filed 4–6–16; 8:45 am]

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Part III

Small Business Administration

Small Business Innovation Research Program and Small Business Technology Transfer Program Policy Directive; Notice

SMALL BUSINESS ADMINISTRATION

RIN 3245–AG64

Small Business Innovation Research Program and Small Business Technology Transfer Program Policy Directive

AGENCY: Small Business Administration.

ACTION: Notice of Proposed Amendments to SBIR and STTR Policy Directives.

SUMMARY: This document proposes to revise the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) program Policy Directives. Specifically, the Small Business Administration proposes to combine the two directives into one document, clarify the data rights and Phase III preference afforded to SBIR and STTR small business awardees, add definitions relating to data rights, and clarify the benchmarks for progress towards commercialization.

DATES: You must submit your comments on or before June 6, 2016.

ADDRESSES: You may submit comments, identified by RIN: 3245–AG64, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail, Hand Delivery/Courier:* Edsel Brown, Assistant Director, Office of Innovation, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

SBA will post all comments to this proposed rule on *www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *www.regulations.gov,* you must submit such information to Edsel Brown, or send an email to *technology@sba.gov.* Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review your information and determine whether it will make the information public.

FOR FURTHER INFORMATION CONTACT: Edsel Brown, Assistant Director, Office of Innovation, at (202) 401–6365 or *technnology@sba.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The purpose of the Small Business Innovation Research (SBIR) program is to stimulate innovation in the US economy by engaging innovative small business concerns (SBCs) in Federally-funded research and research and development (R/R&D). Similarly, the purpose of the Small Business Technology Transfer (STTR) program is to foster partnerships of ideas and technologies between innovative SBCs and research institutions through Federally-funded R/R&D. Federal agency awards to SBCs pursuant to the SBIR program and awards to SBCs for cooperative R/R&D efforts with research institutions pursuant to the STTR program assist the small business and research communities by commercializing innovative technologies.

Both programs use a phased process, uniform throughout the Federal Government, to solicit proposals and award funding agreements for R/R&D to meet stated agency needs or missions. To stimulate and foster scientific and technological innovation, including increasing commercialization of Federal R/R&D, the program follows a competitive process of three phases: Phase I, Phase II, and Phase III.

The Small Business Act (Act) requires that the Small Business Administration (SBA) issue a policy directive setting forth guidance to the Federal agencies participating in the SBIR and STTR programs. The Act provides SBA with broad authority to direct participating agencies in the administration of the programs. The SBIR and STTR Policy Directives outline how agencies must generally conduct their programs. Each agency, however, can tailor their program to meet the needs of the individual agency, as long as the general principles of the program set forth in the Act and directive are followed. Therefore, when incorporating SBIR and STTR policy into agency-specific regulations and procedures, agencies may develop language needed to implement the policy effectively; however, no agency may apply policies, directives, or clauses, that contradict, weaken, or conflict with the policy as stated in the directive.

SBA reviews its policy directives regularly to determine areas that need updating and further clarification. On November 7, 2014, SBA issued an advance notice of policy directive amendments and request for comments at 77 FR 66342. In this notice, SBA explained that it intended to update the directives on a regular basis and to restructure and reorganize the directives, as well as address certain policy issues relating to SBIR and STTR data rights and the issues related to SBIR and STTR Phase III work. In this notice, SBA outlined what it believes are the issues concerning data rights and Phase III awards and requested feedback on several questions posed. SBA received over thirty comments offering recommendations and providing examples of how these issues affect SBIR/STTR companies. While the comments varied on the recommendations for specific changes, they were generally in agreement that the sections of the directives relating to data rights and Phase III awards need further clarification.

With this notice, SBA is proposing to amend both the SBIR and STTR policy directives by combining the two directives into one because the general structure of both programs is the same. In addition, SBA is proposing clarification of the important issues relating to both programs concerning data rights, Phase III awards and benchmarks to commercialization achievement. Although the policy directives are intended for use by the participating agencies, SBA believes that public input on the proposed provisions from all parties involved in the program is invaluable. Therefore, SBA is soliciting public comments on these proposed amendments. A section-by-section outline of the proposed amendments is set forth below.

II. Proposed Amendments

1. Section 1—Purpose

In this section, SBA proposes to clarify that SBA is issuing one directive for both programs and that all provisions in the directive apply to both the SBIR and STTR programs unless specifically noted otherwise.

2. Section 2—Summary of Statutory Provisions

In this section, SBA proposes to delete any references to prior fiscal years that are no longer relevant to the operation of the programs. In addition, SBA proposes to clarify that agencies must "obligate" a certain percentage of the agency's total extramural R&D obligations each fiscal year on awards to small businesses under the programs. This amendment responds to recommendations from the Government Accountability Office (GAO) in a report titled "More Guidance and Oversight Needed to Comply with Spending and Reporting Requirements" (available at *http://www.gao.gov/assets/670/663909.pdf*), that SBA should amend its policy directives to clarify the funding requirements for the programs.

3. Section 3—Definitions

In this section, SBA proposes to add several terms and definitions that relate to SBIR and STTR data rights. When drafting these provisions, SBA considered the fact that the SBIR and STTR programs are unique within the Federal Government. The broad intent of the programs is to stimulate economic growth and development by supporting technological innovation through small business. Because it is funded as a set-aside share of agency R&D, it also has the goal of meeting the mission needs of the various participating agencies.

The purpose of SBIR and STTR data rights is to provide an incentive for small businesses to engage in government-funded innovative research and to support its potential commercialization. This incentive comes from the prospects for successful commercialization by the innovating small business through first-mover advantage, license or sale of the IP, sale of the business, or sale of its related intangible assets (intellectual capital, knowledge, innovation capacities). Legislative history of the Small Business Research and Development Enhancement Act of 1992 stated:

> Section 4(e) of the bill directs SBA to modify its policy directives so as to protect small companies in three areas. The first of these is data rights. The bill directs SBA to extend an SBIR awardee's rights to data generated in the performance of its project to 4 years (as opposed to 2 years in current law). *This provision grows out of the Committee's concern that small businesses capable of producing top quality research might be reluctant to participate in the program if they fear losing control over their ideas.*

H.R. Rep. No. 554(I), 102nd Cong., 2nd Sess. 1992, 24 (emphasis added). Further, legislative history of the Small Business Technology Transfer (STTR) program states the following with respect to data rights:

> Lastly, of the major provisions included in this legislation, S. 856 strengthens the data rights protection for companies and research institutions that conduct STTR projects. *The change in data rights is important because it clarifies that STTR companies, like SBIR companies, retain the data rights to their technology through all phases of an STTR project.* Some agencies have been interpreting the law to mean that STTR companies only retain their data rights through phases I and II. *This clarification helps protect STTR companies from losing control of their research so that they have a greater chance of commercializing their technology themselves. This clarification is important because the Committee has learned that some agencies are providing the data to bigger contractors for development, thereby cutting out the small business. This unfortunate situation not only robs small businesses of revenues, but it also results in expensive legal costs for small businesses to protect their data rights.*

S. Rep. No. 54, 107th Cong., 1st Sess. 2001 (emphasis added). Thus, SBIR and STTR data rights give value to the work performed and thereby form an essential element of the SBIR and STTR incentive and impact.

The Act specifically directs SBA to issue directives to the participating agencies that provide for the retention by the SBC of rights in data generated in the performance of an SBIR or STTR award. *See* 15 U.S.C. 638(j)(1)("(v) retention of rights in data generated in the performance of the contract by the small business concern;"). It also states that these rights should be provided for a minimum of four years. *See* 15 U.S.C. 638(j)(2)(A) and 638(p)(2)(B)(v) ("retention by a small business concern of the rights to data generated by the concern in the performance of an [SBIR or STTR] award for a period of not less than 4 years;"). The purpose of these statutory provisions is to ensure that the SBC retains the rights to the data, and that the small business' data rights apply to all phases of the program.

In accordance with the Small Business Act, the policy directives currently explain that the SBC owns the data generated under the award, and that the Government has an obligation to protect the data from disclosure for at least four years. SBA recognizes that agencies with procurement and acquisition programs can face an apparent conflict between the longer term economic development goals of the programs, which depend on the ability of the participating small business to realize the commercial benefits from its new technology, and the shorter term procurement interests of the agency that focus on acquiring the technology from the SBC at a reasonable cost and controlling its development and application. In light of this potential conflict at the agency level, SBA must ensure that agency practices related to their acquisition programs do not weaken or undermine the effectiveness of the program at stimulating innovation and economic development through small business. SBA must ensure that SBIR/STTR data are properly handled at all times. At the same time, SBA recognizes the mutual benefits involved in administering the programs within procurement agencies and has proposed mechanisms to manage these conflicting interests.

SBA's proposed amendments are based on a review of the statute, legislative history and current directives, expertise and experience at the funding agencies, and comments received from the public. SBA believes that the current directives need clarification to reflect the principles noted above and is proposing to update the directives and define several new terms at this time. The proposed terms to be defined relating to data rights include the following: Computer Database, Computer Programs, Computer Software, Computer Software Documentation, Data, Form Fit and Function Data, SBIR/STTR Technical Data Rights, Operations Maintenance Installation or Training (OMIT) Data, Prototype, SBIR/STTR Computer Software Rights, SBIR/STTR Data, SBIR/STTR Data Rights, SBIR/STTR Protection Period, SBIR/STTR Technical Data Rights, Technical Data, and Unlimited Rights. SBA has based these definitions, to the extent practicable, on definitions used in the Federal Acquisition Regulations (FAR) and the Defense Federal Acquisition Regulations Supplement (DFARS).

With respect to specific definitions, SBA is proposing to clarify the definition of SBIR/STTR Data by explaining that it includes all data developed or generated in the performance of an SBIR/STTR award, including Technical Data and Computer Software.

With respect to prototypes, SBA proposes to define the term prototype to include any model, in any type of form, which is at any stage in development. SBA also proposes to clarify that the release of a prototype, other than Computer Software, to an SBIR/STTR Awardee's competitor, which may enable the competitor to dissemble the prototype and glean the protected data, is contrary to the purpose and intent of the Act, and the implementing Policy Directive. The release of a prototype during the protection period may provide the SBC's competitors with the Technical Data to enable them to commercialize the product and harm the SBC's ability to benefit from the technology. To address this concern, SBA has added to Section 8 of the Policy Directive, language notifying agencies of the potential impact of use or release during the protection period of a prototype developed under an SBIR/STTR award and requesting that agencies monitor the release and use of such prototypes.

SBA also proposes to clarify the data rights afforded the SBC and the Federal government during the statutory SBIR/STTR protection period, and after the protection period has expired, in the proposed definitions of SBIR/STTR Technical Data Rights, SBIR/STTR Computer Software Rights, Unlimited Rights, SBIR/STTR Protection Period, SBIR/STTR Data Rights, and SBIR/STTR Data. The current directives state that the SBC retains the rights in data for a minimum of 4 years from the date of the last deliverable. This protection period (referred to in the proposed amendments as the "SBIR/STTR protection period") is extended with each subsequent, related, SBIR or STTR award. The current directives provide that the Government may not use, modify, reproduce, release, perform, display, or disclose data or computer software for a minimum of 4 years. After expiration of the SBIR/STTR protection period, the Government has a royalty-free license to use, and to authorize others to use on its behalf, these data for government purposes, and is relieved of all disclosure prohibitions and assumes no liability for unauthorized use of these data by third parties.

As currently written, it would appear from the Policy Directives that the Government cannot use the data for any purpose during the protection period and then, once the protection period expires, use the data for Government purposes. The SBA does not intend for the Government to have no use of this data during the protection period; rather, it is intended that the Government have limited rights to use the data so that agencies can effectively evaluate the technology and administer their programs.

In clarifying the data rights protections, the SBA reviewed the FAR and DFARS, which outline distinct rights the Government generally receives when acquiring goods and services: Unlimited rights, limited rights and specifically negotiated rights (FAR) or government purpose rights (DFARS). Pursuant to the FAR, with unlimited rights, the Government receives rights as the name implies—unlimited use of the data, whether for Government or commercial purposes. With respect to limited rights for data other than computer software and restricted rights for computer software, the FAR provides that the Government receives the right to use the data or computer software for internal purposes only and is limited as to when third parties, including support service contractors, can access and use the data. With respect to government purpose rights, the DFARS provides that the Government receives the right to use the data for Government purposes, such as for manufacturing for Government purposes. In such cases, the Government can allow third parties to have access to the data to manufacture for Government purposes; however, the third party must sign a nondisclosure agreement and cannot use the data for its own (commercial) purposes.

In the directive, the SBA proposes that the Government receives what is referred to as SBIR/STTR Technical Data Rights to Technical Data and other Data that is not Computer Software, and SBIR/STTR Computer Software Rights to Computer Software during the SBIR/STTR Protection Period. These limited rights are intended and designed to be similar to the rights set forth in the FAR and DFARS for for Data developed exclusively at private expense. This approach is appropriate for SBIR/STTR Data, as the goal of the program is to advance the commercialization efforts of the awardees, and thus SBA sought to provide rights in data that are comparable to the highest level of data rights protection provided by the Government. There are differences between how the FAR and DFARS defines the Government's rights in data developed exclusively at private expense. As a result, the proposed definitions of SBIR/STTR Computer Software Rights and SBIR/STTR Technical Data are not exact copies of the Limited Rights Notice or Restricted Rights Notice provided in FAR 52.227–14 or the Limited Rights and Restricted Rights in DFARS 252.227–7013 and 7014. SBA is proposing single definitions that will apply to both civilian and defense agencies participating in the programs. The proposed definitions are intended to reflect the main elements of the FAR and DFARS definitions of the Government's rights in data developed exclusively at private expense, including restrictions on the rights to release and disclose that data, with the aim to encourage the awardee's pursuit and achievement of commercialization.

SBA worked closely with agency experts in developing terminology to appropriately describe the limited rights assigned to Technical Data and Computer Software. The section of the FAR related to SBIR data rights (FAR 52.227–20) does not use specific terms to describe the limited rights assigned to SBIR Data, while the DFARS (252.227–7018) uses the terminology Limited Rights and Restricted Rights.

The SBA intends that the Government retain a right to use SBIR/STTR Data during the protection period for non-commercial purposes and for project evaluation and assessment. SBA does not intend for the Government's internal use of SBIR/STTR Data to interfere with, weaken, or undermine the rights or interests of the SBC in this data. Consequently, the SBA has clarified that during the SBIR/STTR protection period, the Government is permitted some, limited or restricted, rights to use the data.

SBA proposes that the minimum length of the SBIR/STTR Protection Period be increased from 4 years to 12 years. SBA also proposes to remove the provision in Section 8 of the directive that allows a subsequent SBIR/STTR award to extend the protection period of a related, prior SBIR/STTR award. This provision currently makes it possible for the protection period to be continuously extended as long as the SBC receives Phase III work. SBA believes this current provision should be removed only if the minimum length of the protection period is increased to at least 12 years, which is three times the length of the current protection period. SBA believes that this longer period of protection will provide SBIR/STTR Awardees with sufficient opportunity to further develop and commercialize the technology represented in the protected SBIR/STTR Data. SBA notes that the 12 year period of protection is a minimum period and that agencies may choose to adopt a longer period of time at their discretion.

SBA proposes that once the SBIR/STTR Protection Period expires, the Government has Unlimited Rights in the SBIR/STTR Data. This means that, after the protection period, the Government may use the data for any activity and for any purpose, which would include a competitive procurement or foreign military sale. Granting the Government Unlimited Rights after the protection period will clarify for agencies and SBCs participating in the program that any use or disclosure of SBIR/STTR Data is permissible at that time. Currently, the data rights clause contained in the directive limits the Government's use and disclosure of SBIR/STTR Data after the protection period to Government use. The terms "Government use" and "Government purpose" are not defined in the directive or the FAR. While Government Purpose is defined in the DFARS as essentially a non-commercial use, the DFARS does not currently grant Government Purpose rights in SBIR/STTR Data either during or after the protection period. The Government generally does not operate for the purpose of creating a profit for itself or non-Government entities. As such, SBA is proposing Unlimited Rights after the protection period because this will eliminate uncertainty about, and the need to determine, whether a Government use or release after the protection period is considered a "Government Purpose" use. SBA believes these changes simplify and clarify the Government's rights in SBIR/STTR Data.

The SBA has also proposed clarifying that at any time during the SBIR/STTR Protection Period, the SBIR/STTR Awardee, or entity that holds the rights to the data, can provide the Government with greater rights, such as Unlimited Rights. However, the Government cannot negotiate these rights prior to an SBIR/STTR award and cannot make issuance of an SBIR/STTR award conditional upon the relinquishment of any data rights. This is not a change from the current policy.

In this section, SBA also considered whether to amend the definition of Essentially Equivalent Work to include work funded by State programs and is asking for public comment on whether this proposed amendment is appropriate. Currently, SBIR/STTR Awardees may not receive duplicate funding from federal sources for Essentially Equivalent Work. However, an awardee may receive State or other program funding for the same work to be performed under an SBIR/STTR award. Such State program funding may provide effective supplemental funding for SBIR/STTR projects, or it may tend to be redundant funding that has the effect of drawing limited State program funds away from other early-stage innovation efforts seeking funding. By including the term "State programs" in the definition of Essentially Equivalent Work, SBIR/STTR Awardees will not be allowed to receive State program funds for the same work performed under an SBIR/STTR award.

Finally, SBA proposes to delete several terms and definitions that SBA believes are common and therefore do not need to be defined in a directive. Specifically, SBA proposes to delete the following terms: Cooperative agreement, feasibility, funding agreement officer, and grant.

4. Section 4—Phased Structure of Programs

In this section, SBA proposes to move information concerning agency benchmarks towards commercialization to Section 6, since these benchmarks relate to eligibility. In addition, SBA proposes to clarify the preferences that agencies must afford prior Phase I or Phase II awardees with respect to Phase III awards.

The Small Business Act states that a Phase III award is one that:

> . . . derives from, extends, or completes efforts made under prior funding agreements under the SBIR program—
>
> (i) in which commercial applications of SBIR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-SBIR Federal funding awards; or
>
> (ii) for which awards from non-SBIR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or merit-based selection procedures;

15 U.S.C. 638(e)(4)(C); *see id.* § 638(e)(6)(C). The purpose of the Phase III award is to provide the small business that developed the technology in Phases I or II the opportunity to commercialize it, whether through a Federal prime or subcontract or other type of agreement.

With respect to Phase III, Congress had directed SBA to provide, for the SBIR/STTR participating agencies:

> procedures to *ensure, to the extent practicable,* that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an SBIR program *enters into follow-on, non-SBIR funding agreements with the small business concern* for such research, development, or production;

15 U.S.C. 638(j)(2)(C) (emphasis added). A few years ago, Congress passed and the President signed into law the National Defense Authorization Act for Fiscal Year 2012, Public Law 112–81, which affected the SBIR and STTR programs. Specifically, section 5001, Division E of the Defense Authorization Act contained the SBIR/STTR Reauthorization Act of 2011 (Reauthorization Act), which set forth several provisions relating to the SBIR and STTR programs, including a provision relating to Phase III.

With the Reauthorization Act, Congress amended the Small Business Act to emphasize, again, that agencies are to utilize small business Phase I or II awardees for Phase III awards, by adding another provision in the Act that states:

> (4) PHASE III AWARDS.—*To the greatest extent practicable,* Federal agencies and Federal prime contractors *shall issue Phase III awards relating to technology, including sole source awards, to the SBIR and STTR award recipients that developed the technology.*

15 U.S.C. 638(r)(4) (emphasis added). This provision addresses the concern that, at times, agencies have failed to use this authority, bypassed the small business that created the technology, and pursued the Phase III work with another business rather than actively supporting and encouraging the commercialization or further development of SBIR/STTR technology by the innovative small business that developed the technology. As a result, SBA is required by statute to report to Congress cases where agencies fail to comply with the reporting requirements and intent of the SBIR/STTR Phase III policy set forth in statute. *Id.* 638 (j)(3)(C).

Therefore, if the government is interested in pursuing further work that was performed under an SBIR or STTR award, the government must, to the *greatest* extent practicable, pursue that work with the SBIR or STTR awardee that performed the earlier work. Notwithstanding the strong congressional mandate codified in statute, SBA continues to hear from small businesses, agencies and trade groups that SBIR/STTR Awardees do not receive Phase III awards. One comment received on the notice of proposed amendments to the policy directive suggested that some officials do not fully understand how this policy on Phase III awards can be implemented.

As a result, SBA has proposed to explain that agencies must, to the greatest extent practicable, determine whether a requirement, solicitation or intended work either is Phase III work or includes it. If the requirement is or includes Phase III work, or if the agency is later informed that it is or includes Phase III work, SBA proposes that the agency must document that the requirement is Phase III and then evaluate the practicability (to the greatest extent) of pursuing the required work with the SBIR or STTR awardee that conducted the prior SBIR or STTR work. This would mean that the agency must first consider whether it can issue a sole source award to the Phase I or Phase II awardee. Awarding the Phase III work to the SBIR or STTR firm on a sole source basis is not practicable if, for example, the firm is no longer in business or cannot perform the work itself or with subcontractors. SBA proposes that the decision by the agency that it is not practicable to issue a sole award to the SBIR/STTR Awardee must be documented in the contract file and a copy of that decision, including the rationale, provided to SBA.

SBA received some comments from the public concerning other preferences that may be afforded to SBIR/STTR Awardees for Phase III. As a result, SBA proposes that if the agency determines that it cannot issue a sole source award for the Phase III, then it must consider whether there are other ways to provide the preference to the SBIR/STTR Awardee such as, for example, including a brand-name requirement for the SBIR/STTR Awardee's deliverable within its solicitation when appropriate or including an evaluation factor for prime contractors or evaluation points for prime contractors that utilize SBIR/STTR Awardees. Unless the agency finds that it is not practicable to pursue the Phase III work with the SBIR or STTR Awardee, the agency must provide a preference and must always consider issuing a sole source award first and foremost when providing this preference.

In addition to clarifying the Phase III preference, SBA has proposed clarifications to the notice and appeal procedures with respect to Phase III awards or non-awards. As noted above, SBA has proposed that the agency must notify SBA when it does not intend to issue a Phase III award and then SBA can file a notice of intent to appeal and then the actual appeal.

In light of the foregoing, SBA also proposes to clarify paragraph (c)(3) concerning the competitions requirements for Phase III awards. Specifically, SBA proposes that if a Justification and Approval are required by the procuring agency for a Phase III sole source, the agency can state that the SBIR/STTR Phase III award is derived from, extends, or completes efforts made under prior SBIR/STTR funding agreements issued competitively and sole source awards are authorized pursuant to 15 U.S.C. 638(r)(4).

5. Section 6—Eligibility and Application (Proposal) Requirements

SBA has proposed deleting the requirement that a SBC can partner with only one research institution under the STTR program. SBA believes that a small business can partner with more than one research institution under the STTR program as long as at least 30% of the work under the award is performed by a single partnering research institution. For example, if the SBC is performing 40% of the work itself and subcontracting 30% to the single research institution, the SBC may subcontract the remaining 30% to one or more other research institutions or to another entity.

SBA has also proposed moving the agency benchmark performance requirements from Section 3 to this section of the directive. The benchmark performance requirements, set forth in 15 U.S.C. 638qq, are designed to ensure a minimum degree of awardee progress towards commercialization. Specifically, the Act requires that agencies establish standards, or benchmarks, to measure: (1) The success of Phase I awardees in receiving Phase II awards, and (2) the success of Phase I awardees in receiving Phase III awards. Agencies have established these benchmarks, which were published in the **Federal Register** and are also available at *www.SBIR.gov.* Any subsequent changes in the benchmarks must be approved by SBA.

SBA has proposed clarifying when SBA calculates awardee progress towards meeting the benchmark rates, that each agency determines whether a Phase I applicant meets both of its benchmarks, and that the details regarding agency benchmark rates and the implementation of this requirement are available to the public on *www.SBIR.gov.*

SBA proposed allowing participation by Tribally-owned SBIR/STTR applicants and awardees. Section 9 of the Small Business Act does not prohibit participation by small business concerns that are owned and controlled by Indian Tribes and it was never the intent of SBA to exclude participation of these entities in these small business innovation programs.

6. Section 7—Program Funding Process

SBA proposed modifying the section on Dollar Value of Awards to state that SBA will review the effects of inflation on the guideline amounts annually to determine if program-wide changes in the amounts are warranted, and will post the inflation amounts and any adjustments to the guideline amount on *www.sbir.gov.*

7. Section 8—Terms of Agreement Under SBIR/STTR Awards

SBA's proposed amendments to this section clarify the main elements of the SBIR/STTR Data Rights, the SBIR/STTR Protection Period, and the terms and conditions that must be set forth in the SBIR/STTR solicitation and award as it relates to data rights. The proposed changes in this section relate to the proposed amendments to the data rights definitions contained in Section 3. SBA notes that while the Government receives SBIR/STTR Technical Data Rights and SBIR/STTR Computer Software Rights in marked SBIR/STTR Data, these rights are intended to provide a level of protection similar to that which is provided to data an agency receives that was developed exclusively at private expense. SBA also clarifies in this section that SBIR/STTR Data Rights may be negotiated; however, an agency must not make issuance of an SBIR/STTR award conditional upon the small business negotiating or consenting to negotiate modification or transfer of these rights.

Section 8 is also revised to remove the provision that a subsequent SBIR/STTR award extends the protection period of a related prior award. The Policy Directive currently states: "Agencies are released from obligation to protect SBIR data upon expiration of the protection period except that any such data that is also protected and referenced under a subsequent SBIR award must remain protected through the protection period of that subsequent SBIR award." This policy poses administrative challenges for the funding agencies to determine, prior to the release of SBIR/STTR Data, whether or not a subsequent award exists that extends the Government's obligation to protect that data. SBA believes that, if this extension provision is removed, an increase in the minimum required protection period from 4 years to 12 years provides an awardee firm with sufficient time to take measures to protect the data or utilize it to its commercial advantage.

This section also contains the proposed terms of the non-disclosure agreement that must be entered between the Government and a non-Governmental entity receiving SBIR/STTR Data in accordance with the Government's limited rights in that data. The proposed requirements are that the non-Governmental entity: (1) Understands and acknowledges the limitations on the Government's access, use, modification, reproduction, release, performance, transmission, display or disclosure as set forth in the agreement; (2) is prohibited from further releasing, disclosing, or using the data without the written permission of the SBIR/STTR Awardee; (3) agrees to destroy or return to the Government all SBIR/STTR Data, and all copies in its possession, at or before the time specified in the agreement, and to notify the procuring agency that all copies have been destroyed or returned; (4) is prohibited from using the data for a commercial purpose; and (5) agrees that the SBIR/STTR Data will be accessed and used for the sole purpose of providing impartial advice or technical assistance directly to the Government. The directives do not currently require that a Government contractor with access to SBIR/STTR Data enter a nondisclosure agreement, however, SBA believes this is necessary to ensure that any non-Governmental entity recipient of the data understands the limitations on the use and disclosure of SBIR/STTR Data. These requirements were modeled off of the nondisclosure agreement requirements contained in the DFARS and FAR for contractor access to SBIR/STTR Data.

SBA proposes to limit the time period during which an SBIR/STTR Awardee may correct markings of SBIR/STTR Data or add omitted markings to SBIR/STTR Data. Currently, there is no time limit on when an awardee may correct or add omitted markings to its data. Several of the funding agencies expressed concern that having no time limit can create administrative burdens and noted that there is a 6-month time limit to correct or add protective markings on data delivered by awardees outside the SBIR/STTR program, including other SBCs. We are proposing a 6-month time period from the date the data was delivered during which an awardee may correct or add the appropriate markings to SBIR/STTR Data it has submitted. SBA is requesting public comment on this change.

SBA has also proposed language to be included in section 8 of the directive to reflect its concern regarding the treatment of prototypes, other than Computer Software, that are developed under an SBIR/STTR award. SBA states that agencies should handle such prototypes with caution to prevent the potential disclosure of the innovative technology or data developed under an SBIR/STTR award. While a prototype may not itself be considered SBIR/STTR Data because it is not "recorded information," it may be possible under certain circumstances for an agency or non-Government entity to glean protected aspects through observation or reverse engineering.

8. Section 9—Responsibilities of SBA

SBA proposes moving information in Appendix X relating to the National Academy of Sciences study to this section.

9. Section 10—Reporting Requirements for Agencies, Applicants and Awardees

In this section, SBA proposes to amend the title to clarify that the section relates to all reporting requirements required by statute. SBA also proposes to delete references to reports that were due in 2012 and 2014 and therefore are no longer relevant.

10. In addition, SBA has proposed deleting any references to TechNet and replacing them with "*www.SBIR.gov.*" Any system that SBA uses to report or collect information will be on the *www.SBIR.gov* Web site, which is SBA's central Web site for everything relating to the SBIR/STTR programs. *Appendix I: Instructions for SBIR and STTR Program Solicitation Preparation*

SBA proposes amending the certifications that small businesses must submit prior to, upon and after an SBIR/STTR award. Specifically, SBA proposes combining the SBIR and STTR certifications into one and noting on the document those paragraphs that are applicable to STTR only. In addition, SBA has proposed clarifying the certification to ensure the Federal government is not funding projects where other funding has covered the same work, including State grants.

SBA also proposes clarifying the Instructions set forth in the Policy Directive and adding a specific model clause that must be reflected in all solicitations and resulting funding agreements to ensure the SBIR/STTR Awardee's data rights are protected. This proposed model clause would ensure that data rights are applied consistently throughout the Federal government.

The proposed clause sets forth the pertinent terms and definitions relating to data rights, which are also set forth and defined in Section 3 of the directive. In addition, the proposed clause in Appendix I states that the awardee small business owns the data developed or generated during the award, defines the protection period during which the Government has SBIR/STTR Technical Data Rights and SBIR/STTR Computer Software Rights in the data, and states that the Government has Unlimited Rights upon expiration of the protection period. The proposed clause requires the awardee to mark its protected data, which is the current practice in the Federal government.

11. Appendix II: SBIR/STTR Program Database

SBA is proposing to remove this appendix of database codes from the directive and to instead maintain a current list of the database codes on *www.SBIR.gov* as a ready reference for the funding agencies.

12. Appendix III: Performance Areas and Metrics

SBA is proposing to remove this list of examples of performance metrics and to instead maintain a current example list, in addition to the required metrics, as a ready reference on *www.sbir.gov.*

III. Request for Comments

SBA worked with the various SBIR and STTR participating agencies to gather input and feedback and issued an advanced notice seeking comments on the topics presented in this notice. SBA now requests comments on the specific amendments proposed.

In particular, SBA is requesting feedback on its proposed clarification of the Government's SBIR/STTR data rights in SBIR/STTR Data during an SBIR/STTR Protection Period of not less than 12 years. SBA is interested in whether the public believes that these limitations on the Government's use and disclosure are sufficient to protect SBIR/STTR Data from use or release that could harm the ability of the awardee to benefit commercially from its SBIR/STTR work. Similarly, do the rights in SBIR/STTR Data that are proposed create potential adverse impacts on the Government's research and development goals? Has SBA achieved a sufficient balance between the interests of the SBIR/STTR awardees and the Government during the protection period by proposing rights in data that are similar to the Government's rights in data developed exclusively at private expense? SBA also seeks input on whether the proposed minimum length of the protection period is appropriate to achieve the policy goals associated with protecting SBIR/STTR Data. If the public feels that the proposed SBIR/STTR Data Rights and protection period do not adequately protect SBIR/STTR Data, please provide alternative suggestions and a rationale for their adoption.

Additionally, SBA seeks comment on its proposal that the Government receives Unlimited Rights in the SBIR/STTR Data following the expiration of the protection period. Is there a specific need to protect SBIR/STTR Data from the Government's commercial use of such data after the protection period? If so, please provide examples of when the Government has used such data for commercial purposes to the disadvantage of the SBIR/STTR Awardee and alternatives to Unlimited Rights.

SBA is also specifically seeking comments on its proposal to eliminate the extension of the protection period when a subsequent, related SBIR/STTR award is made. Will the elimination of this policy create unforeseen harm to SBIR/STTR Awardees even if the protection period is increased to a minimum of 12 years? If so, explain any perceived negative effect of this proposed policy change, given the longer protection period. SBA also seeks alternative approaches that would address the current administrative burden on agencies to determine whether data may be released when subsequent awards are made by different agencies.

Additionally, SBA specifically requests comments on the proposed language added to section 8 regarding prototypes. SBA is concerned that agencies may reverse engineer, use, and release prototypes other than software, or enable others to do so, for any purpose and at any time because agencies do not consider prototypes to be within the definition of SBIR/STTR Data, and as a result do not consider prototypes protected by SBIR/STTR Technical Data Rights and SBIR/STTR Computer Software Rights. The concept of a prototype or item appears distinguishable from the concept of data, as defined in the FAR and DFAR as "recorded information." SBA is concerned that even though participating agencies do not consider prototypes to be "recorded information," a prototype may be reverse engineered to reveal the innovative technology developed by the SBIR/STTR Awardee in its performance of the SBIR/STTR award. In these cases, reverse engineering the prototype and using that information to either manufacture the product internally within the Government or through a procurement could harm the ability of an SBIR/STTR Awardee to commercialize the technology. SBA intends that the combination of its proposed changes to the Phase III award process in addition to the proposed language to be included in section 8 will address its concerns. SBA seeks public input on whether this is the best way to encourage agencies to prevent harmful use or disclosure of prototypes. SBA also seeks input on whether the directive adequately addresses protections against possible uses of delivered SBIR/STTR Data that is computer software that would inappropriately harm the SBC's prospects of commercializing the technology.

SBA is also seeking public comment on the proposed establishment of a time limit of 6 months for SBIR/STTR Awardees to correct or add omitted markings on SBIR/STTR Data it has delivered. Does this present a significant challenge or hardship for the Awardee?

SBA will review and consider all comments received to determine whether amendments are needed to improve the general conduct of the programs.

Notice of Proposed Amendments to the Policy Directive for the Small Business Innovation Research (SBIR) and Small Business Technology Transfer Research (STTR) Programs

To: The SBIR and STTR Program Managers
Subject: SBIR/STTR Policy Directive Proposed Revisions

1. *Purpose.* The Small Business Administration (SBA) proposes to revise its Small Business Innovation Research (SBIR) and Small Business Technology Transfer Research (STTR) program Policy Directives. Specifically, SBA proposes to combine the two directives into one document, clarify the data rights afforded to SBIR and STTR small business awardees, add definitions relating to data rights, clarify the Phase III preference to be afforded to SBIR and STTR awardees, and clarify the benchmarks for progress towards commercialization.

2. *Authority.* The Small Business Act (15 U.S.C. 638(j) and (p)) requires the SBA Administrator to issue an SBIR and STTR program Policy Directive for the general conduct of the programs.

3. *Procurement Regulations.* It is recognized that the Federal Acquisition Regulations and agency supplemental regulations may need to be modified to conform to the requirements of a final Policy Directive. SBA's Administrator or designee has a role in reviewing any regulatory provisions that pertain to programs authorized by the Small Business Act.

4. *Personnel Concerned.* This Policy Directive serves as guidance for all Federal government personnel who are involved in the administration of the SBIR and STTR programs, issuance and management of funding agreements or contracts pursuant to the programs, and the establishment of goals for small business concerns in research or research and development acquisition or grants.

5. *Originator.* SBA's Office of Innovation and Investment.

6. *Date.* Public comments on the proposed amendments to the Policy Directive must be submitted within 60 days following publication in the **Federal Register**.

Dated: March 25, 2016.

Mark L. Walsh,

Associate Administrator for the Office of Investment and Innovation.

Dated: March 25, 2016.

Maria Contreras-Sweet,

Administrator.

1. Purpose

(a) Sections 9(j) and 9(p) of the Small Business Act (Act) require that the Small Business Administration (SBA) issue Policy Directives for the general conduct of the SBIR and STTR programs within the Federal Government.

(b) This Policy Directive fulfills SBA's statutory obligation to provide guidance to the participating Federal agencies for the general operation of the SBIR and STTR programs. Because most of the policy for the SBIR and STTR program is the same, SBA issues a single Policy Directive for both programs. Unless one of the programs is specifically mentioned, the term "program" or "programs" refers to both the SBIR and STTR programs. In addition, "SBIR/STTR" is used throughout to refer to both programs.

(1) The following sections pertain only to the STTR program: § 3(ff)—Definition of "Research Institution," § 7(k)—Management of the STTR Project, § 8(c)—Allocation of Intellectual Property Rights in STTR Award, and § 12(e)—Phase 0 Proof of Concept Partnership Pilot Program.

(2) The following sections pertain only to the SBIR program: § 3(b)—Definition of "Additionally Eligible State," § 3(l)—Definition of "Covered Small Business," § 4(b)(1)(ii)—Direct to Phase II Awards, § 6(a)(6)—Majority-Owned by Multiple VCOCs, Hedge Funds or Private Equity Firms, § 6(b)(1)(ii)—Registration and Certifications for Proposal and Award for Majority-Owned by Multiple VCOCs, Hedge Funds or Private Equity Firms, and Appendix I—Certifications for Proposal and Award for Majority-Owned by Multiple VCOCs, Hedge Funds or Private Equity Firms.

(3) Additional or modified instructions may be issued by SBA as a result of public comment or experience. With this directive, SBA fulfills the statutory requirement to simplify and standardize the program proposal, selection, contracting, compliance, and audit procedures for the programs to the extent practicable, while allowing the participating agencies flexibility in the operation of their individual programs. Wherever possible, SBA has attempted to reduce the paperwork and regulatory compliance burden on SBCs applying to and participating in the SBIR/STTR programs, while still meeting the statutory reporting and data collection requirements.

(c) The statutory purpose of the SBIR program is to strengthen the role of innovative small business concerns (SBCs) in Federally-funded research or research and development (R/R&D). Specific program purposes are to: (1) stimulate technological innovation; (2) use small business to meet Federal R/R&D needs; (3) foster and encourage participation by socially and economically disadvantaged small businesses (SDBs), and by women-owned small businesses (WOSBs), in technological innovation; and (4) increase private sector commercialization of innovations derived from Federal R/R&D, thereby increasing competition, productivity and economic growth.

(d) In addition to the broad goals of the SBIR program, the statutory purpose of the STTR program is to stimulate a partnership of ideas and technologies between innovative SBCs and non-profit Research Institutions. By providing awards to SBCs for cooperative R/R&D efforts with Research Institutions, the STTR program assists the U.S. small business and research communities by supporting the commercialization of innovative technologies.

(e) Federal agencies participating in the programs (participating agencies) are obligated to follow the guidance provided by this Policy Directive. Each agency is required to review its rules, policies, and guidance on the programs to ensure consistency with this Policy Directive and to make any necessary changes in accordance with each agency's normal procedures. This is consistent with the statutory authority provided to SBA concerning the SBIR/STTR programs.

2. Summary of Statutory Provisions

(a) The SBIR program is codified at § 9 of the Small Business Act, 15 U.S.C. 638. The SBIR program is authorized until September 30, 2017, or as otherwise provided in law subsequent to that date.

(b) Each Federal agency with an extramural budget for R/R&D in excess of $100,000,000 must participate in the SBIR program and spend (obligate) the following minimum percentages of their extramural R/R&D budgets for awards to small business concerns for R/R&D under the SBIR program:

(1) not less than 2.9% of such budget in fiscal year 2015;

(2) not less than 3.0% of such budget in fiscal year 2016; and

(3) not less than 3.2% of such budget in fiscal year 2017 and each fiscal year after.

A Federal agency may exceed these minimum percentages.

(c) The STTR program is also codified at § 9 of the Small Business Act, 15 U.S.C. 638. The STTR program is authorized until September 30, 2017, or as otherwise provided in law subsequent to that date.

(d) Each Federal agency with an extramural budget for R/R&D in excess of $1,000,000,000 must participate in the STTR program and spend (obligate) the following minimum percentages of their extramural R/R&D budgets (obligations) on awards to small business concerns under the STTR program:

(1) not less than 0.40% of such budget in fiscal years 2014 and 2015; and

(2) not less than 0.45% of such budget in fiscal year 2016 and each fiscal year after.

A Federal agency may exceed these minimum percentages.

(e) In general, each participating agency must make SBIR/STTR awards for R/R&D through the following uniform, three-phase process:

(1) Phase I awards to determine, insofar as possible, the scientific and technical merit and feasibility of ideas that appear to have commercial potential.

(2) Phase II awards to further develop work from Phase I that meets particular program needs and exhibits potential for commercial application.

(3) Phase III awards where commercial applications of SBIR/STTR program-funded R/R&D are funded by non-Federal sources of capital; or where products, services or further research intended for use by the Federal Government are funded by non-SBIR/STTR sources of Federal funding.

(f) Participating agencies must report to SBA on the calculation of the agency's extramural R&D budget, for the purpose of determining SBIR/STTR program funding, within four months of enactment of each agency's annual Appropriations Act.

(g) The Act explains that agencies are authorized and directed to cooperate with SBA in order to carry out and accomplish the purpose of the programs. As a result, each participating agency shall provide information to SBA for SBA to monitor and analyze each agency's SBIR/STTR program and to report annually to the Senate Committee on Small Business and Entrepreneurship and to the House Committees on Science and Small Business. For more information on the agency's reporting requirements, including the frequency for specific reporting requirements, *see* § 10 of the Policy Directive.

(h) SBA establishes databases and Web sites to collect and maintain, in a common format, information that is necessary to assist SBCs and assess the SBIR/STTR programs.

(i) SBA implements the Federal and State Technology (FAST) Partnership Program to strengthen the technological competitiveness of SBCs, to the extent that FAST is authorized by law.

(j) The competition requirements of the Armed Services Procurement Act of 1947 (10 U.S.C. 2302, *et seq.*) and the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 3101, *et seq.*) must be read in conjunction with the procurement notice publication requirements of § 8(e) of the Small Business Act (15 U.S.C. 637(e)). The following notice publication requirements of § 8(e) of the Small Business Act apply to SBIR/STTR participating agencies using contracts as a SBIR or STTR funding agreement.

(1) Any Federal executive agency intending to solicit a proposal to contract for property or services valued above the amounts set forth in Federal Acquisition Regulations (FAR) § 5.101, must transmit a notice of the impending solicitation to the Government wide point of entry (GPE) for access by interested sources. *See* FAR § 5.201. The GPE, located at *www.fbo.gov,* is the single point where Government business opportunities, including synopses of proposed contract actions, solicitations, and associated information, can be accessed electronically by the public. In addition, an agency must not issue its solicitation for at least 15 days from the date of the publication of the GPE. The agency must establish a deadline for submission of proposals in response to a solicitation in accordance with FAR § 5.203.

(2) The contracting officer must generally make available through the GPE those solicitations synopsized through the GPE, including specifications and other pertinent information determined necessary by the contracting officer. *See* FAR § 5.102.

(3) Any executive agency awarding a contract for property or services must synopsize the award through the GPE in accordance with FAR subpart 5.3.

(4) The following are exemptions from the notice publication requirements:

(i) In the case of agencies intending to solicit Phase I proposals for contracts in excess of $25,000, the head of the agency may exempt a particular solicitation from the notice publication requirements if that official makes a written determination, after consulting with the Administrator of the Office of Federal Procurement Policy and the SBA Administrator, that it is inappropriate or unreasonable to publish a notice before issuing a solicitation.

(ii) The SBIR/STTR Phase II award process.

(iii) The SBIR/STTR Phase III award process.

3. Definitions

(a) *Act.* The Small Business Act (15 U.S.C. 631, *et seq.*), as amended.

(b) *Additionally Eligible State.* (SBIR only) A State in which the total value of funding agreements awarded to SBCs under all agency SBIR programs is less than the total value of funding agreements awarded to SBCs in a majority of other States, as determined by SBA's Administrator in biennial fiscal years and based on the most recent statistics compiled by the Administrator.

(c) *Applicant.* The organizational entity that qualifies as an SBC at all pertinent times and that submits a contract proposal or a grant application for a funding agreement under the SBIR/STTR programs.

(d) *Affiliate.* This term has the same meaning as set forth in 13 CFR part 121—Small Business Size Regulations, § 121.103, "How Does SBA Determine Affiliation?". Further information about SBA's affiliation rules and a guide on affiliation is available at *www.SBIR.gov* and *www.SBA.gov/size.*

(e) *Awardee.* The organizational entity that receives an SBIR or STTR Phase I, Phase II, or Phase III award.

(f) *Commercialization.* The process of developing products, processes, technologies, or services and the production and delivery (whether by the originating party or others) of the products, processes, technologies, or services for sale to or use by the Federal government or commercial markets.

(g) *Computer Database.* A collection of data recorded in a form capable of being processed by a computer. The term does not include Computer Software.

(h) *Computer Programs.* A set of instructions, rules, or routines recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.

(i) *Computer Software.* Computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated, or recompiled. Computer Software does not include Computer Databases or Computer Software Documentation.

(j) *Computer Software Documentation.* Owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the Computer Software or provide instructions for using the software.

(k) *Covered Small Business Concern.* [SBIR only] A small business concern that: (1) was not majority-owned by multiple venture capital operating companies (VCOCs), hedge funds, or private equity firms on the date on which it submitted an application in response to a solicitation under the SBIR program; and (2) is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms on the date of the SBIR award.

(l) *Data.* All recorded information, regardless of the form or method of recording or the media on which it may be recorded. The term does not include information incidental to contract or grant administration, such as financial, administrative, cost or pricing or management information.

(m) *Essentially Equivalent Work.* Work that is substantially the same research, which is proposed for funding in more than one contract proposal or grant application submitted to the same Federal agency or a State program, or submitted to two or more different Federal agencies or State programs for review and funding consideration; or work where a specific research objective and the research design for accomplishing the objective are the same or closely related to another proposal or award, regardless of the funding source.

(n) *Extramural R/R&D Budget/Obligations.* The sum of the total obligations for R/R&D minus amounts obligated during a given fiscal year for R/R&D activities by employees of a Federal agency in or through Government-owned, Government-operated facilities. For the Agency for International Development, the "extramural budget" does not include amounts obligated solely for general institutional support of international research centers or for grants to foreign countries. For the Department of Energy, the "extramural budget" does not include amounts obligated for atomic energy defense programs solely for weapons activities or for naval reactor programs. (*See also* § 7(i) of this Policy Directive for additional exemptions related to national security.)

(o) *Feasibility.* The practical extent to which a project can be performed successfully.

(p) *Federal Agency.* An executive agency as defined in 5 U.S.C. 105, and a military department as defined in 5 U.S.C. 102 (Department of the Army, Department of the Navy, Department of the Air Force), except that it does not include any agency within the Intelligence Community as defined in Executive Order 12333, § 3.4(f), or its successor orders.

(q) *Federal Laboratory.* As defined in 15 U.S.C. 3703, means any laboratory, any federally funded research and development center, or any center established under 15 U.S.C. 3705 & 3707 that is owned, leased, or otherwise used by a Federal agency and funded by the Federal Government, whether operated by the Government or by a contractor.

(r) *Funding Agreement.* Any contract, grant, or cooperative agreement entered into between any Federal agency and any SBC for the performance of experimental, developmental, or research work, including products or services, funded in whole or in part by the Federal Government.

(s) *Form, Fit, and Function Data.* Data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, and data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements. For computer software it means data identifying source, functional characteristics, and performance requirements, but specifically excludes the source code, algorithms, processes, formulas, and flow charts of the software.

(t) *Innovation.* Something new or improved, having marketable potential, that includes the development of new technology, the refinement of existing technology, or the development of new applications for existing technology.

(u) *Intellectual Property.* The separate and distinct types of intangible property that are referred to collectively as "intellectual property," including but not limited to: patents, trademarks, copyrights, trade secrets, and mask works..

(v) *Joint Venture. See* 13 CFR 121.103(h).

(w) *Key Individual.* The principal investigator/project manager and any other person named as a "key" employee in a proposal submitted in response to a program solicitation.

(x) *Operations, Maintenance, Installation, or Training Purposes (OMIT) Data.* Data that is necessary for operation, maintenance, installation, or training purposes (but not including detailed manufacturing or process data).

(y) *Participating Agency(ies).* A federal agency with an SBIR or STTR program. An "SBIR/STTR Agency."

(z) *Principal Investigator/Project Manager.* The one individual designated by the applicant to provide the scientific and technical direction to a project supported by the funding agreement.

(aa) *Program Solicitation.* A formal solicitation for proposals issued by a Federal agency that notifies the small business community of its R/R&D needs and interests in broad and selected areas, as appropriate to the agency, and requests for proposals from SBCs in response to these needs and interests.

(bb) *Prototype.* A product, material, thing, system, or process, or a model thereof, that is in development, regardless of whether it is in tangible, electronic, graphic or other form, at any stage of development prior to its intended ultimate commercial production and sale. The term "Prototype" includes computer programs embedded in hardware or devices.

(cc) *Research or Research and Development (R/R&D).* Any activity that is: (1) a systematic study directed toward greater knowledge or understanding of the subject studied; (2) a systematic study directed specifically toward applying knowledge and innovation to meet a recognized but unmet need; or (3) a systematic application of knowledge and innovation toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of Prototypes and new processes to meet specific requirements.

(dd) *Research Institution.* One that has a place of business located in the United States, which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor, and is: (1) A non-profit institution as defined in section 4(3) of the Stevenson-Wydler Technology Innovation Act of 1980 (that is, an organization that is owned and operated exclusively for scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual); or (2) A Federally-funded R&D center as identified by the National Science Foundation in accordance with the Federal Acquisition Regulation issued in accordance with section 35(c)(1) of the Office of Federal Procurement Policy Act (or any successor regulation). A non-profit institution can include hospitals and military educational institutions, if they meet the definition above.

(ee) *SBIR/STTR Computer Software Rights.* The Government's rights during the SBIR/STTR Protection Period in specific types of SBIR/STTR Data that are Computer Software.

(1) The Government may use, modify, reproduce, release, perform, display, or disclose SBIR/STTR Data that are Computer Software within the Government. The Government may exercise SBIR/STTR Computer Software Rights within the Government for:

(i) Use in Government computers;

(ii) Modification, adaptation, or combination with other computer software, provided that the Data incorporated into any derivative software are subject to the rights in paragraph (ee) and that the derivative software is marked as containing SBIR/STTR Data;

(iii) Archive or backup; or

(iv) Distribution of a computer program to another Government agency, without further permission of the awardee, if the awardee is notified of the distribution and the identity of the recipient prior to the distribution, and a copy of the SBIR/STTR Computer Software Rights included in the funding agreement is provided to the recipient.

(2) The Government shall not release, disclose, or permit access to SBIR/STTR Data that is Computer Software for commercial, manufacturing, or procurement purposes without the written permission of the awardee. The Government shall not release, disclose, or permit access to SBIR/STTR Data outside the Government without the written permission of the awardee unless:

(i) The non-Governmental entity has entered into a non-disclosure agreement with the Government that complies with the terms for such agreements outlined in section 8 of this Policy Directive; and

(ii) The release or disclosure is—

(A) To a Government support service contractor for purposes of supporting Government internal use or activities, including evaluation, diagnosis and correction of deficiencies, and adaptation, combination, or integration with other Computer Software provided that SBIR/STTR Data incorporated into any derivative software are subject to the rights in paragraph (ee); or

(B) Necessary to support certain narrowly-tailored essential Government activities for which law or regulation permits access of a non-Government entity to a contractors' data developed exclusively at private expense, non-SBIR/STTR Data, such as for emergency repair and overhaul.

(ff) *SBIR/STTR Data.* All appropriately marked Data developed or generated in the performance of an SBIR or STTR award, including Technical Data and Computer Software developed or generated in the performance of an SBIR or STTR award. The term does not include information incidental to contract or grant administration, such as financial, administrative, cost or pricing or management information.

(gg) *SBIR/STTR Data Rights.* The Government's license rights in SBIR/STTR Data during the SBIR/STTR Protection Period as follows: SBIR/STTR Technical Data Rights in SBIR/STTR Data that are Technical Data or any other type of Data other than Computer Software that is properly marked, and SBIR/STTR Computer Software Rights in SBIR/STTR Data that is Computer Software. Upon expiration of the protection period for SBIR/STTR Data, the Government's obligation to protect that data expires and the Government's rights in that data convert to Unlimited rights. The Government receives Unlimited Rights in all unmarked data.

(hh) *SBIR/STTR Protection Period.* The period of time during which the Government is obligated to protect SBIR/STTR Data against unauthorized use and disclosure in accordance with SBIR/STTR Data Rights. The SBIR/STTR Protection Period begins at award of an SBIR/STTR funding agreement and ends not less than twelve years after acceptance of the last deliverable under that agreement (*See* § 8(b)(4) below).

(ii) *SBIR/STTR Technical Data Rights.* The Government's rights during the SBIR/STTR Protection Period in SBIR/STTR Data that are Technical Data or any other type of Data other than Computer Software.

(1) The Government may, use, modify, reproduce, perform, display, release, or disclose SBIR/STTR Data that are Technical Data within the Government; however, the Government shall not use, release, or disclose the data for procurement, manufacture or commercial purposes; or release or disclose the SBIR/STTR Data outside the Government except as permitted by paragraph (2) below or by written permission of the awardee.

(2) SBIR/STTR Data that are Technical Data may be released outside the Government without any additional written permission of the awardee only if the non-Governmental entity or foreign government has entered into a non-disclosure agreement with the Government that complies with the terms for such agreements outlined in section 8 of this Policy Directive and the release is:

(i) Necessary to support certain narrowly-tailored essential Government activities for which law or regulation permits access of a non-Government entity to a contractors' data developed exclusively at private expense, non-SBIR/STTR Data, such as for emergency repair or overhaul;

(ii) To a Government support services contractor in the performance of a Government support services contract and the release is not for commercial purposes or manufacture;

(iii) To a foreign government for purposes of information and evaluation if required to serve the interests of the U.S. Government; or

(iv) To non-Government entities or individuals for purposes of evaluation.

(jj) *Small Business Concern.* A concern that meets the SBIR/STTR program eligibility requirements set forth in 13 CFR 121.702, "What size and eligibility standards are applicable to the SBIR and STTR programs?".

(kk) *Socially and Economically Disadvantaged SBC (SDB). See* 13 CFR part 124, subpart B.

(ll) *Socially and Economically Disadvantaged Individual. See* 13 CFR 124.103 & 124.104.

(mm) *Student/Faculty-owned small business.* A small business that is majority-owned by a faculty member or a student of an institution of higher education as defined in 20 U.S.C. 1001.

(nn) *Subcontract.* Any agreement, other than one involving an employer-employee relationship, entered into by an awardee of a funding agreement calling for supplies or services for the performance of the original funding agreement.

(oo) *Technology Development Program.*

(1) the Experimental Program to Stimulate Competitive Research of the

National Science Foundation as established under 42 U.S.C. 1862g;

(2) the Defense Experimental Program to Stimulate Competitive Research of the Department of Defense;

(3) the Experimental Program to Stimulate Competitive Research of the Department of Energy;

(4) the Experimental Program to Stimulate Competitive Research of the Environmental Protection Agency;

(5) the Experimental Program to Stimulate Competitive Research of the National Aeronautics and Space Administration;

(6) the Institutional Development Award (IDeA) Program of the National Institutes of Health; and

(7) the Agriculture and Food Research Initiative (AFRI) of the Department of Agriculture.

(pp) *Technical Data.* Recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including Computer Software Documentation and Computer Databases). The term does not include Computer Software or financial, administrative, cost or pricing, or management information, or other data incidental to contract or grant administration. The term includes recorded Data of a scientific or technical nature that is included in Computer Databases.

(qq) *United States.* The 50 states, the territories and possessions of the Federal Government, the Commonwealth of Puerto Rico, the District of Columbia, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(rr) *Unlimited Rights.* The Government's rights to access, use, modify, prepare derivative works, reproduce, release, perform, display, disclose, or distribute Data in whole or in part, in any manner and for any purpose whatsoever, and to have or authorize others to do so.

(ss) *Women-Owned SBC (WOSB).* An SBC that is at least 51% owned by one or more women, or in the case of any publicly owned business, at least 51% of the stock is owned by women, and women control the management and daily business operations.

4. Phased Structure of Programs

The SBIR/STTR programs employ a phased process, uniform throughout the Federal Government, of soliciting proposals and awarding funding agreements for R/R&D, production, services, or any combination, to meet stated agency needs or missions. Agencies must issue SBIR/STTR awards pursuant to competitive and merit-based selection procedures. Agencies may not use investment of venture capital or investment from hedge funds or private equity firms as a criterion for an SBIR/STTR award. Although matching funds are not required for Phase I or Phase II awards, agencies may require a small business to have matching funds for certain special awards (*e.g.,* to reduce the gap between a Phase II and Phase III award). In order to stimulate and foster scientific and technological innovation, including increasing commercialization of Federal R/R&D, the program must follow a uniform competitive process of the following three phases, unless an exception applies:

(a) *Phase I.* Phase I involves a solicitation of contract proposals or grant applications to conduct feasibility-related experimental or theoretical R/R&D related to described agency requirements. These requirements, as defined by agency topics contained in a solicitation, may be general or narrow in scope, depending on the needs of the agency. The object of this phase is to determine the scientific and technical merit and feasibility of the proposed effort and the quality of performance of the SBC with a relatively small agency investment before consideration of further Federal support in Phase II.

(1) Several different proposed solutions to a given problem may be funded.

(2) Proposals will be evaluated on a competitive basis. Agency criteria used to evaluate SBIR/STTR proposals must give consideration to the scientific and technical merit and feasibility of the proposal along with its potential for commercialization. Considerations may also include program balance with respect to market or technological risk or critical agency requirements.

(3) Agency benchmarks for progress towards commercialization must be met to be eligible to participate in Phase I of the program. *See* section 6(a) for a description of this Phase I eligibility requirement.

(4) Agencies may require the submission of a Phase II proposal as a deliverable item under Phase I.

(b) *Phase II.*

(1) The object of Phase II is to continue the R/R&D effort from the completed Phase I. Unless an exception set forth in paragraphs (i) or (ii) below applies, only SBIR/STTR Phase I awardees are eligible to participate in Phase II.

(i) A Federal agency may issue an SBIR Phase II award to an STTR Phase I awardee to further develop the work performed under the STTR Phase I award. Similarly, an agency may issue an STTR Phase II award to an SBIR Phase I awardee to further develop the work performed under the SBIR Phase I award. The agency must base its decision upon the results of work performed under the Phase I award and the scientific and technical merit and commercial potential of the Phase II proposal. The Phase I awardee must meet the eligibility and program requirements of the Phase II program from which it will receive the award in order to receive the Phase II award.

(ii) [SBIR only] During fiscal years (FY) 2012 through 2017, the National Institutes of Health (NIH), Department of Defense (DoD) and the Department of Education (DoEd) may issue a Phase II SBIR award to a small business concern that did not receive a Phase I SBIR award for that R/R&D. Prior to such an award, the heads of those agencies, or designees, must issue a written determination that the small business has demonstrated the scientific and technical merit and feasibility of the ideas that appear to have commercial potential. The determination must be submitted to SBA prior to issuing the Phase II award.

(2) Funding must be based upon the results of work performed under a Phase I award and the scientific and technical merit, feasibility and commercial potential of the Phase II proposal. Phase II awards may not necessarily complete the total research and development that may be required to satisfy commercial or Federal needs beyond the SBIR/STTR program. The Phase II funding agreement with the awardee may, at the discretion of the awarding agency, establish the procedures applicable to Phase III agreements. The Government is not obligated to fund any specific Phase II proposal.

(3) The SBIR/STTR Phase II award decision process requires, among other things, consideration of a proposal's commercial potential. Commercial potential includes the potential to transition the technology to private sector applications, Government applications, or Government contractor applications. Commercial potential in a Phase II proposal may be evidenced by:

(i) the SBC's record of successfully commercializing SBIR/STTR or other research;

(ii) the existence of Phase II funding commitments from private sector or other non-SBIR/STTR funding sources;

(iii) the existence of Phase III, follow-on commitments for the subject of the research; and

(iv) other indicators of commercial potential of the idea.

(4) Agencies may not use an invitation, pre-screening, or pre-selection process for eligibility for Phase II. Agencies must note in each

solicitation that all Phase I awardees may apply for a Phase II award and provide guidance on the procedure for doing so.

(5) A Phase II awardee may receive one additional, sequential Phase II award to continue the work of an initial Phase II award. The additional, sequential Phase II award has the same guideline amounts and limits as an initial Phase II award.

(6) Agencies may offer special SBIR/STTR awards, such as Phase IIB awards, that supplement or extend Phase II awards. For example, some agencies administer Phase IIB awards that differ from the base Phase II in that they require third party matching of the SBIR/STTR funds. Each such supplemental award must be linked to a base Phase II award (the initial Phase II, or the second sequential Phase II award). Any SBIR/STTR funds used for such special or supplementary awards are aggregated with the amount of the base Phase II to determine the size of that Phase II award. Therefore, while there is no limit on the number of such special/supplementary awards, there is a limit on the total amount of SBIR/STTR funds that can be administered through them—the amounts of these awards count towards the size of the initial Phase II or the sequential Phase II, each of which has a guideline amount of $1 million and a limit of $1.5 million. (Note that Phase IIB awards under the NIH SBIR program are administered as second, sequential Phase II awards, not supplemental awards. As such, they are base Phase II awards and subject to the Phase II guideline amounts and limits of $1 million and $1.5 million).

(7) A concern that has received a Phase I award from an agency may receive a subsequent Phase II award from another agency if each agency makes a written determination that the topics of the relevant awards are the same and both agencies report the awards to the SBA including a reference to the related Phase I award and initial Phase II award if applicable.

(8) Agencies may issue Phase II awards for testing and evaluation of products, services, or technologies for use in technical or weapons systems.

(c) *Phase III.* Phase III refers to work that derives from, extends, or completes an effort made under prior SBIR/STTR funding agreements, but is funded by sources other than the SBIR/STTR programs. Phase III work is typically oriented towards commercialization of SBIR/STTR research or technology.

(1) *Phase III work:* Each of the following types of activity constitutes SBIR/STTR Phase III work:

(i) Commercial application (including testing and evaluation of products, services or technologies for use in technical or weapons systems) of SBIR/STTR-funded R/R&D that is financed by non-Federal sources of capital. (Note: The guidance in this Policy Directive regarding SBIR/STTR Phase III pertains to the non-SBIR/STTR federally-funded work described in (ii) and (iii) below. It does not address private agreements an SBIR/STTR firm may make in the commercialization of its technology, except for a subcontract to a Federal contract that may be a Phase III.).

(ii) SBIR/STTR-derived products or services intended for use by the Federal Government, funded by non-SBIR/STTR sources of Federal funding.

(iii) Continuation of SBIR/STTR work, funded by non-SBIR/STTR sources of Federal funding.

(2) *Data Rights.* A Phase III award is, by its nature an SBIR/STTR award, has SBIR/STTR status, and must provide for SBIR/STTR Data Rights. If an SBIR/STTR Awardee receives a funding agreement (whether competed, sole sourced or a subcontract) for work that derives from, extends, or completes efforts made under prior SBIR/STTR funding agreements, then the funding agreement for the new work must have all SBIR/STTR Phase III status and SBIR/STTR Data Rights.

(3) *Competition Requirement.* The competitions for SBIR/STTR Phase I and Phase II awards satisfy any competition requirement of the Armed Services Procurement Act, the Federal Property and Administrative Services Act, and the Competition in Contracting Act. An agency that wishes to fund an SBIR/STTR Phase III award, which is an extension of prior Phase I and/or Phase II awards, is not required to conduct another competition for the Phase III award in order to satisfy those statutory provisions. As a result, in conducting actions relative to a Phase III SBIR/STTR award, it is sufficient to state for purposes of a Justification and Approval, if one is deemed required by the agency, that the project is an SBIR/STTR Phase III award that is derived from, extends, or completes efforts made under prior SBIR/STTR funding agreements and is authorized pursuant to 15 U.S.C. 638(r)(4).

(4) Phase III work may be for products, production, services, R/R&D, or any such combination.

(5) There is no limit on the number, duration, type, or dollar value of Phase III awards made to a business concern. There is no limit on the time that may elapse between a Phase I or Phase II award and Phase III award, or between a Phase III award and any subsequent Phase III award. A Federal agency may enter into a Phase III SBIR/STTR agreement at any time with a Phase II awardee. Similarly, a Federal agency may enter into a Phase III SBIR/STTR agreement at any time with a Phase I awardee. A subcontract to a Federally-funded prime contract may be a Phase III award.

(6) *Size.* The small business size limits for Phase I and Phase II awards do not apply to Phase III awards.

(7) *Special acquisition requirement.* Agencies or their Government-owned, contractor-operated (GOCO) facilities, Federally-funded research and development centers (FFRDCs), or Government prime contractors that pursue R/R&D or production of technology developed under the SBIR/STTR program shall issue Phase III awards relating to the technology, including sole source awards, to the Awardee that developed the technology under an SBIR/STTR award, to the greatest extent practicable.

(i) *Implementing the requirement.* In recognition of the prior merit-based competitive selection of, and subsequent commitment of agency funds to SBIR/STTR Awardees and the broad intent of the program to promote the commercial success of these small businesses, Agencies must make a good faith effort to negotiate with such Awardees regarding the performance of the new, related, work and to issue Phase III awards for the work. When implementing this requirement, the agency must identify the planned work as SBIR/STTR Phase III and consider the practicability of pursuing the work with the Awardee through a sole source award by performing market research to determine whether the firm is available, capable and willing to perform the work. In every case, the funding agency must act in ways consistent with the Congressional intent to support the commercialization of an SBIR/STTR-develop technology by the SBIR/STTR Awardee, and all parties must proceed along these steps in good faith.

(ii) *Sole Source Awards.* If pursuing the Phase III work with the Awardee is found to be practicable, the agency must award a non-competitive contract to the firm.

(iii) *Other Preference.* If pursuing the Phase III work with the Awardee on a sole source/non-competitive basis is not practicable, the Agency must document the file and provide a copy of the decision, including the rationale, to the SBA. In addition, the agency must consider whether there are other means of affording preference for the Phase III work and the SBIR/STTR Awardee, such as, for example, using a brand-name requirement for the SBIR/STTR Awardee's deliverable in the solicitation when appropriate, or using an evaluation factor that gives preference or priority to offerors utilizing SBIR/STTR Awardees for the Phase III work.

(iv) *Agency Notice of Intent to Award.* An agency, or its GOCOs or FFRDCs, that intends to pursue Phase III work (which includes R/R&D, production, services, or any combination thereof of a technology developed under an SBIR/STTR award), with an entity other than the Phase I or Phase II SBIR/STTR Awardee, must notify SBA in writing prior to such an award. This notification must include, at a minimum:

(A) The steps the agency has taken to fulfill the special acquisition requirement (*e.g.*, a good faith effort to make the award to the SBIR/STTR Awardee).

(B) The reasons why a follow-on funding agreement with the SBIR/STTR Awardee is not practicable (*e.g.*, SBIR/STTR Awardee was not willing or interested in the work, not capable of doing the work or functioning as a prime and subcontracting the work, or no longer in business).

(C) The identity of the entity with which the agency intends to make an award to perform the research, development, or production; the type of funding agreement to be used; and the amounts of the agreement.

(v) *SBA Notice of Intent to Appeal.* SBA may appeal a decision by an agency (or its GOCOs or FFRDCs) to pursue Phase III work with a business concern other than the SBIR/STTR Awardee that developed the technology to the head of the contracting activity.

(A) If SBA receives an agency's notice of intent to make an award under (iv) above, SBA may file a notice of intent to appeal with the funding agreement officer no later than 5 business days after receiving the agency's notice of intent to make award.

(B) If an agency is pursuing work that SBA has determined is Phase III work and has not complied with either of the reporting requirements above, SBA may notify the agency at any time of its intent to appeal the decision to proceed with the work. SBA makes such determinations based on all information it receives, including information presented directly to SBA by an SBIR/STTR Awardee.

(vi) *Suspension of Work.* Upon receipt of SBA's notice of intent to appeal, the funding agreement officer must suspend further action on the acquisition until the head of the contracting activity issues a written decision on the appeal. The funding agreement officer may proceed with award only if he or she determines in writing that the award must be made to protect the public interest. The funding agreement officer must include a statement of the facts justifying such a determination and provide a copy of its determination to SBA.

(vii) *SBA Appeal.* Within 10 business days of SBA's Notice of Intent to appeal, SBA may file a formal appeal with the head of the agency. SBA's appeal will state with specificity SBA's conclusion that the agency's obligation to make a Phase III award "to the greatest extent practicable" has not been fulfilled.

(viii) *Agency Decision.* Within 30 business days of receiving SBA's appeal, the head of the agency's contracting activity must render a written decision setting forth the basis of his or her determination. During this period, the agency should consult with SBA and review any case-specific information SBA believes to be pertinent.

(ix) *SBA case report to Congress.* SBA notifies Congress of all instances in which an agency pursued Phase III R/R&D, or production of a technology developed under an SBIR/STTR award, with a business or entity other than the SBIR/STTR Awardee. SBA will notify Congress of such instances, of any agency determination or decision justifying an award to other than the Phase III SBIR/STTR Awardee, and of any SBA appeals of agency decisions under this section.

5. Program Solicitation Process

(a) *Topics/Subtopics.* At least annually, each agency must issue a program solicitation that sets forth a substantial number of R/R&D topics and subtopic areas consistent with stated agency needs or missions. Agencies may decide to issue joint solicitations. Both the list of topics and the description of the topics and subtopics must be sufficiently comprehensive to provide a wide range of opportunities for SBCs to participate in the agency R&D programs. Topics and subtopics must emphasize the need for proposals with advanced concepts to meet specific agency R/R&D needs. Each topic and subtopic must describe the needs in sufficient detail to assist in providing on-target responses, but cannot involve detailed specifications to prescribed solutions of the problems.

(b) *Master Schedule.* The Act requires issuance of SBIR/STTR Phase I program solicitations in accordance with a Master Schedule coordinated between SBA and the SBIR/STTR agency. The SBA office responsible for coordination is: Office of Innovation, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416. Phone: (202) 205–6450. Fax: (202) 205–7754. Email: *technology@sba.gov.* Web site: *www.SBIR.gov.*

(c) *Coordination of Agency Schedules.* For maximum participation by interested SBCs, it is important that the planning, scheduling and coordination of agency program solicitation release dates be completed as early as practicable to coincide with the commencement of the fiscal year on October 1. Bunching of agency program solicitation release and closing dates may prohibit SBCs from preparation and timely submission of proposals for more than one SBIR/STTR project. SBA's coordination of agency schedules minimizes the bunching of proposed release and closing dates. SBIR/STTR agencies may elect to publish multiple program solicitations within a given fiscal year to facilitate in-house agency proposal review and evaluation scheduling.

(d) *Posting of Master Schedule.* SBA posts a Master Schedule of release dates of program solicitations with links to the participating agency Web sites. For more information *see* section 10(c).

(e) *Simplified, Standardized, and Timely SBIR/STTR Program Solicitations*

(1) The Act requires simplified, standardized and timely SBIR/STTR solicitations and for agencies to use a "uniform process" minimizing the regulatory burden for SBCs. Therefore, the instructions in Appendix I to this Policy Directive purposely depart from normal Government solicitation format and requirements.

(2) Agencies must update SBIR.gov with information on each solicitation and modification no later than 5 days after the date of release of the solicitation or modification to the public. This must include any update to the Web site link for the program solicitation.

(3) SBA does not intend that the SBIR/STTR program solicitation replace or be used as a substitute for unsolicited proposals for R/R&D awards to SBCs. In addition, the SBIR/STTR program solicitation procedures do not prohibit other agency R/R&D actions with SBCs that are carried on in accordance with applicable statutory or regulatory authorizations.

6. Eligibility and Application (Proposal) Requirements

(a) *Eligibility Requirements*

(1) *Certification.* To receive SBIR/STTR funds, each awardee of a Phase I or Phase II award must qualify as an SBC at the time of award and at any other time set forth in SBA's regulations at 13 CFR 121.701–121.705. Each Phase

I and Phase II awardee must submit a certification stating that it meets the size, ownership and other requirements of the SBIR or STTR program at the time of award, and at any other time set forth in SBA's regulations at 13 CFR 121.701–705. SBA's size regulations for the SBIR/STTR program require that an awardee be directly owned and controlled by individuals or small business concerns; however, SBA is clarifying that a small business concern directly owned and controlled by an Indian Tribe or by another small business concern that is directly owned and controlled by an Indian Tribe may also be eligible to participate in the SBIR/STTR programs.

(2) *Performance of Work Requirements.* For SBIR Phase I, a minimum of two-thirds of the research or analytical effort must be performed by the awardee. For SBIR Phase II, a minimum of one-half of the research or analytical effort must be performed by the awardee. For STTR Phase I and Phase II, not less than 40 percent of the R/R&D work must be performed by the SBC, and not less than 30 percent of the R/R&D work must be performed by a partnering Research Institution. Occasionally, deviations from these requirements may occur, and must be approved in writing by the funding agreement officer after consultation with the agency SBIR/STTR Program Manager/Coordinator. An agency can measure this research or analytical effort using the total contract dollars or labor hours, and must explain to the small business in the solicitation how it will be measured.

(3) *Employment of the Principal Investigator.* For both Phase I and Phase II, the primary employment of the principal investigator must be with the SBC (or the research institution—STTR only) at the time of award and during the conduct of the proposed project. Primary employment means that more than one-half of the principal investigator's employment time is spent in the employ of the SBC (or research institution—STTR only). This precludes full-time employment with another organization. Occasionally, deviations from this requirement may occur, and must be approved in writing by the funding agreement officer after consultation with the agency SBIR/STTR Program Manager/Coordinator. Further, an SBC may replace the principal investigator on an SBIR/STTR Phase I or Phase II award, subject to approval in writing by the funding agreement officer. For purposes of the SBIR/STTR programs, personnel obtained through a Professional Employer Organization or other similar personnel leasing company may be considered employees of the awardee. This is consistent with SBA's size regulations, 13 CFR 121.106, "How Does SBA Calculate Number of Employees?".

(4) *Location of the work.* For both Phase I and Phase II, the R/R&D work must be performed in the United States. However, based on a rare and unique circumstance, agencies may approve a particular portion of the R/R&D work to be performed or obtained in a country outside of the United States, for example, if a supply or material or other item or project requirement is not available in the United States. The funding agreement officer must approve each such specific condition in writing.

(5) *Novated/Successor in Interested/Revised Funding Agreements.* An SBIR/STTR Awardee may include, and SBIR/STTR work may be performed by, those identified via a "novated" or "successor in interest" or similarly-revised funding agreement. For example, in order to receive a Phase III award, the awardee must have either received a prior Phase I or Phase II award or been novated a Phase I or Phase II award (or received a revised Phase I or Phase II award if a grant or cooperative grant). In addition, an SBIR/STTR Awardee may include those that have merely reorganized with the same key staff (*e.g.,* reorganized from a partnership to an LLC), regardless of whether they have been assigned a different tax identification number. In cases where there is a novation or similarly revised funding agreement, agencies may require the original awardee to relinquish its rights and interests in an SBIR/STTR project in favor of another applicant as a condition for that applicant's eligibility to participate in the programs for that project.

(6) *Majority-Owned by Multiple VCOCs, Hedge Funds or Private Equity Firms [SBIR Only].* NIH, Department of Energy, and National Science Foundation may each award not more than 25% of the agency's SBIR funds to SBCs that are owned in majority part by multiple venture capital operating companies, hedge funds, or private equity firms through competitive, merit-based procedures that are open to all eligible small business concerns. Any other SBIR participating agency may award not more than 15% of the agency's SBIR funds to such SBCs. SBIR agencies may or may not choose to utilize this funding option. A table listing the agencies that are currently using this authority can be found at *www.SBIR.gov.* This authority is set forth in 13 CFR 121.701–121.705.

(i) Before permitting participation in the SBIR program by SBCs that are owned in majority part by multiple venture capital operating companies, hedge funds, or private equity firms, the SBIR agency must submit a written determination to SBA, the Senate Committee on Small Business and Entrepreneurship, the House Committee on Small Business and the House Committee on Science, Space, and Technology at least 30 calendar days before it begins making awards to such SBCs. The determination must be made by the head of the Federal agency or designee and explain how awards to such SBCs in the SBIR program will:

(A) induce additional venture capital, hedge fund, or private equity firm funding of small business innovations;

(B) substantially contribute to the mission of the Federal agency;

(C) address a demonstrated need for public research; and

(D) otherwise fulfill the capital needs of small business concerns for additional financing for SBIR projects.

(ii) The SBC that is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms must register with SBA in the Company Registry Database, at *www.SBIR.gov,* prior to the date it submits an application for an SBIR award.

(iii) The SBC that is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms must submit a certification with its proposal stating, among other things, that it has registered with SBA.

(iv) Any agency that makes an award under this paragraph during a fiscal year shall collect and submit to SBA data relating to the number and dollar amount of Phase I awards, Phase II awards, and any other category of awards by the Federal agency under the SBIR program during that fiscal year. *See* section 10 of this directive for the specific reporting requirements.

(v) If an agency awards more than the percentage of the funds authorized under section 6(a)(6) of the Policy Directive, the agency shall transfer from its non-SBIR and non-STTR R&D funds to the agency's SBIR funds any amount that is in excess of the authorized amount. The agency must transfer the funds not later than 180 days after the date on which the Federal agency made the award that exceeded the authorized amount.

(vi) If a Federal agency makes an award under a solicitation more than 9 months after the date on which the period for submitting applications under the solicitation ends, a Covered Small Business Concern is eligible to receive the award, without regard to whether it meets the eligibility requirements of the program for a SBC that is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms, if the Covered Small Business Concern meets all other requirements for such an award. In addition, the agency must transfer from its non-SBIR and non-STTR R&D funds to the agency's SBIR funds any amount that is so awarded to a Covered Small Business Concern. The funds must be transferred not later than 90 days after the date on which the Federal agency makes the award.

(7) *Agency benchmarks for progress towards commercialization.*

(i) Before making a new Phase I award to an awardee that has won multiple prior SBIR/STTR awards, each agency must establish benchmarks for progress towards commercialization and determine whether an applicant meets those benchmarks. Agencies must apply two SBA-approved performance standards (benchmarks) addressing an awardee's progress towards commercialization: a Phase II Transition Rate that sets a minimum required rate of progress from Phase I to Phase II over a specified period, and a Commercialization Rate Benchmark that sets the minimum commercialization results an awardee must have realized from its prior SBIR/STTR awards over a specified period.

(ii) If an awardee fails to meet either of the benchmarks, that awardee is not eligible for a new Phase I award (and any new Phase II award issued pursuant to paragraph 4(b)(1)(ii)) for a period of one year from the time of the determination.

(iii) For each benchmark, agencies establish a threshold number of prior awards an awardee must have won for the benchmark requirement to be applied.

(iv) Using information received from the agencies and from SBIR/STTR Awardees, SBA identifies the companies that have won more than the threshold number of awards and calculates the Phase II Transition Rates and Commercialization Rates for those companies. The results of this assessment are used by each agency to determine if a company fails to meet a benchmark rate and is therefore not eligible for a new Phase I award. Agencies must notify SBA of any applications denied because of failure to meet the benchmarks. The assessment results and eligibility determinations are not made public. Participating agencies and SBA officials view the results through secure user accounts on *www.SBIR.gov.* Each participating company can view the results of the last benchmark assessment once it has created a Small Business User account on *www.SBIR.gov.* If an awardee believes its assessment was made in error, it may provide SBA with the pertinent award information and request a reassessment.

(v) Current details of these requirements and the implementation processes used by the agencies are posted on *www.SBIR.gov* under the "Performance Benchmark Requirements" tab. Changes to these benchmarks requirements and procedures become effective when posted on the *www.SBIR.gov.* Agencies must submit any changes to the benchmarks to SBA for prior approval. If approved, SBA will publish the benchmarks and allow for public comment at least 60 days before becoming effective.

(b) *Proposal (Application) Requirements.*

(1) *Registration and Certifications for Proposal and Award.*

(i) Each applicant must register in SBA's Company Registry Database at *www.SBIR.gov* (*see* Appendix I) and submit a .pdf document of the registration and any required certifications with its application if the information cannot be transmitted automatically to the SBIR/STTR agencies from *www.SBIR.gov.* Applicants must have updated their information on the Company Registry no more than 6 months prior to the date of a proposal submission.

(ii) Agencies may request the SBIR/STTR applicant to submit a certification at the time of submission of the application, which requires the applicant to state that it intends to meet the size, ownership and other requirements of the SBIR/STTR program at the time of award of the funding agreement, if selected for award. *See* Appendix I for the required text of the certification.

(iii) [SBIR Only] For those agencies using the authority under section 6(a)(6) of the Directive, each Phase I and Phase II applicant that is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms is required to submit a specific certification with its SBIR application to the SBIR agency (*see* Appendix I for the required text of the certification).

(2) *Commercialization Plan.* A succinct commercialization plan must be included with each proposal for an SBIR/STTR Phase II award. Elements of a commercialization plan will include the following, as applicable:

(i) *Company information.* Focused objectives/core competencies; specialization area(s); products with significant sales; and history of previous Federal and non-Federal funding, regulatory experience, and subsequent commercialization.

(ii) *Customer and Competition.* Clear description of key technology objectives, current competition, and advantages compared to competing products or services; description of hurdles to acceptance of the innovation.

(iii) *Market.* Milestones, target dates, analyses of market size, and estimated market share after first year sales and after 5 years; explanation of plan to obtain market share.

(iv) *Intellectual Property.* Patent status, technology lead, trade secrets or other demonstration of a plan to achieve sufficient protection to realize the commercialization stage and attain at least a temporal competitive advantage.

(v) *Financing.* Plans for securing necessary funding in Phase III.

(vi) *Assistance and mentoring.* Plans for securing needed technical or business assistance through mentoring, partnering, or through arrangements with state assistance programs, SBDCs, Federally-funded research laboratories, Manufacturing Extension Partnership centers, or other assistance providers.

(3) *Data Collection.* Each Phase I and II applicant is required to provide information on *www.SBIR.gov* (*see* Appendix II). Each SBC applying for a Phase II award is required to update its commercialization information on *www.SBIR.gov* for all of its prior Phase II awards (*see* Appendix II).

7. Program Funding Process

Because the Act requires a "simplified, standardized funding process," specific attention must be given to the following areas of SBIR/STTR program administration:

(a) *Timely Receipt of Proposals.* Program solicitations must establish proposal submission dates for Phase I and may establish proposal submission dates for Phase II. However, agencies may also negotiate mutually acceptable Phase II proposal submission dates with individual Phase I awardees.

(b) *Review of Proposals.* SBA encourages Participating Agencies to use their routine review processes for SBIR/STTR proposals whether internal or external evaluation is used. A more limited review process may be used for Phase I due to the larger number of proposals anticipated. Where appropriate, "peer" reviews external to the agency are authorized by the Act. SBA cautions Participating Agencies that all review procedures must be designed to minimize any possible conflict of interest as it pertains to applicant proprietary data. The standardized SBIR/STTR solicitation advises potential applicants that proposals may be subject to an established external review process and that the applicant may include company designated proprietary information in its proposal.

(c) *Selection of Awardees.*

(1) *Time period for decision on proposals.*

(i) The National Institutes of Health (NIH) and the National Science Foundation (NSF) must issue a notice to an applicant for each proposal submitted stating whether it was recommended or not for award no more than one year after the closing date of the solicitation. NIH and NSF agencies should issue the award no more than 15 months after the closing date of the solicitation. Pursuant to paragraph (iii) below, NIH and NSF are encouraged to reduce these timeframes.

(ii) All other participating agencies must issue a notice to an applicant for each proposal submitted stating whether it was recommended or not for award no more than 90 calendar days after the closing date of the solicitation. Agencies should issue the award no more than 180 calendar days after the closing date of the solicitation.

(iii) Agencies are encouraged to develop programs or measures to reduce the time periods between the close of a Phase I solicitation/receipt of a Phase II application and notification to the applicant as well as the time to the issuance of the Phase I and Phase II awards. As appropriate, agencies should adopt accelerated proposal, evaluation, and selection procedures designed to address the gap in funding these competitive awards to meet or reduce the timeframes set forth above. With respect to Phase II awards, SBA recognizes that Phase II arrangements between the agency and applicant may require more detailed negotiation to establish terms acceptable to both parties; however, agencies must not sacrifice the R/R&D momentum created under Phase I by engaging in unnecessarily protracted Phase II proceedings.

(iv) *Request for Waiver.*

(A) If the agency determines that it requires additional time between the solicitation closing date and the notification of recommendation for award, it must submit a written request for an extension to SBA. The written request must specify the number of additional calendar days needed to issue the notice for a specific applicant and the reasons for the extension. If an agency believes it will not meet the timeframes for an entire solicitation, the request for an extension must state how many awards will not meet the statutory timeframes, as well as the number of additional calendar days needed to issue the notice and the reasons for the extension. The written request must be submitted to SBA at least 10 business days prior to when the agency must issue its notice to the applicant. Agencies must send their written request to: Office of Innovation, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416. Phone: (202) 205–6450. Fax: (202) 205–7754. Email: *technology@sba.gov.*

(B) SBA will respond to the request for an extension within 5 business days, as practicable. SBA may authorize an agency to issue the notice up to 90 calendar days after the timeframes set forth in paragraphs (c)(1)(i) and (ii).

(C) Even if SBA grants an extension of time, the SBIR/STTR agency is required to develop programs or measures to reduce the time periods between the close of a Phase I solicitation/receipt of a Phase II application and notification to the applicant as well as the time to the issuance of the Phase I and Phase II awards as set forth in paragraph (c)(1)(3) above.

(D) If an SBIR/STTR agency does not receive an extension of time, it may still proceed with the award to the small business and must complete the requirements in (C) above.

(2) *Standardized solicitation.*

(i) The standardized SBIR/STTR program solicitation must advise Phase I applicants that additional information may be requested by the awarding agency to evidence awardee responsibility for project completion and advise applicants of the proposal evaluation criteria for Phase I and Phase II.

(ii) The SBIR/STTR agency will provide information to each Phase I awardee considered for a Phase II award regarding Phase II proposal submissions, reviews, and selections.

(d) *Essentially Equivalent Work.* SBIR/STTR applicants often submit duplicate or similar proposals to more than one soliciting agency when the announcement or solicitation appears to involve similar topics or requirements. However, "essentially equivalent work" must not be funded in the SBIR/STTR or other Federal agency or State programs, unless an exception to this rule applies. Agencies must verify with the applicant that this is the case by requiring them to certify at the time of award and during the lifecycle of the award that they do not have essentially equivalent work funded by another Federal agency or State program.

(e) *Cost Sharing.* Cost sharing can serve the mutual interests of the participating agencies and certain program awardees by assuring the efficient use of available resources. However, cost sharing on SBIR/STTR projects is not required, although it may be encouraged. Therefore, cost sharing cannot be an evaluation factor in the review of proposals. The standardized SBIR/STTR program solicitation (Appendix I) will provide information to prospective program applicants concerning cost sharing.

(f) *Payment Schedules and Cost Principles.*

(1) SBIR/STTR Awardees may be paid under an applicable, authorized progress payment procedure or in accordance with a negotiated/definitized price and payment schedule. Advance payments are optional and may be made under appropriate law. In all cases, agencies must make payment to recipients under SBIR/STTR funding agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of the funding agreement requirements.

(2) All SBIR/STTR funding agreements must use, as appropriate, current cost principles and procedures authorized for use by the participating agencies. By the time of award, agencies must have informed each Awardee of the applicable Federal regulations and procedures that refer to the costs that, generally, are allowable under funding agreements.

(3) Agencies must, to the extent possible, attempt to shorten the amount of time between the notice of an award under the SBIR/STTR program and the subsequent release of funding with respect to the award.

(g) *Funding Agreement Types and Fee or Profit.* Statutory requirements for uniformity and standardization require consistency in application of SBIR/STTR program provisions among SBIR/STTR agencies. However, consistency must allow for flexibility by the various agencies in missions and needs as well as the wide variance in funds required to be devoted to SBIR/STTR programs in the agencies. The following instructions meet all of these requirements:

(1) *Funding Agreement.* The type of funding agreement (contract, grant, or cooperative agreement) is determined by the awarding agency, but must be consistent with 31 U.S.C. 6301–6308. Contracting agencies may issue SBIR/STTR awards as fixed price contracts (including firm fixed price, fixed price incentive or fixed price level of effort contracts) or cost type contracts, consistent with the Federal Acquisition Regulations and agency supplemental acquisition regulations. In some cases,

small businesses seek progress payments, which may be appropriate under fixed-price R&D contracts and are a form of contract financing for firm-fixed-price contracts. However, for certain agencies, in order to qualify for progress payments or an incentive type contract, the small business's accounting system would have to be audited, which can delay award, unless the contractor has an already approved accounting system. Therefore SBIR/STTR agencies should consider using partial payments methods or on a deliverable item basis or consider other available options to work with the SBIR/STTR Awardee.

(2) *Fee or Profit.* Except as expressly excluded or limited by statute, awarding agencies must provide for a reasonable fee or profit on SBIR/STTR funding agreements, consistent with normal profit margins provided to profit-making firms for R/R&D work.

(h) *Periods of Performance and Extensions.*

(1) In keeping with the legislative intent to make a large number of relatively small awards, modification of funding agreements to increase the dollar amount should be kept to a minimum, except for options in original Phase I or II awards.

(2) *Phase I.* Period of performance normally should not exceed 6 months for SBIR or 1 year for STTR. However, agencies may provide a longer performance period where appropriate for a particular project.

(3) *Phase II.* Period of performance under Phase II is a subject of negotiation between the awardee and the issuing agency. The duration of Phase II normally should not exceed 2 years. However, agencies may provide a longer performance period where appropriate for a particular project.

(i) *Dollar Value of Awards.*

(1) Generally, a Phase I award (including modifications) may not exceed $150,000 and a Phase II award (including modifications) may not exceed $1,000,000. Agencies may issue an award that exceeds these award guideline amounts by no more than 50%.

(2) SBA reviews these amounts every year for the effects of inflation and posts these inflation effects and any resulting adjustments on *www.SBIR.gov.* Adjusted guidelines are effective for all solicitations issued on or after the date of the adjustment, and may be used by agencies to amend the solicitation and other program literature. Agencies have the discretion to issue awards for less than the guidelines.

(3) There is no dollar limit associated with Phase III SBIR/STTR awards.

(4) Agencies may request a waiver to exceed the award guideline amounts established in paragraph (i)(1) by more than 50% for a specific topic. Agencies must submit this request for a waiver to SBA prior to release of the solicitation, contract award, or modification to the award for the topic. The request for a waiver must explain and provide evidence that the limitations on award size will interfere with the ability of the agency to fulfill its research mission through the SBIR or STTR program; that the agency will minimize, to the maximum extent practicable, the number of awards that exceed the guideline amounts by more than 50%; and that research costs for the topic area differ significantly from those in other areas. After review of the agency's justification, SBA may grant the waiver for the agency to exceed the award guidelines by more than 50% for a specific topic. SBA will issue a decision on the request within 10 business days. The waiver will be in effect for one fiscal year.

(5) Agencies must maintain information on all awards exceeding the guidelines set forth in paragraph (i)(1), including the amount of the award, a justification for exceeding the guidelines for each award, the identity and location of the awardee, whether the awardee has received any venture capital, hedge fund, or private equity firm investment, and whether the awardee is majority-owned by multiple VCOCs, hedge funds, or private equity firms.

(6) The award guidelines do not prevent an agency from funding SBIR/STTR projects from other (non-SBIR/STTR) agency funds. Non-SBIR/STTR funds used on SBIR/STTR efforts do not count toward the award guidelines set forth in (i)(1).

(j) *National Security Exemption.* The Act provides for exemptions related to the simplified standardized funding process "if national security or intelligence functions clearly would be jeopardized." This exemption should not be interpreted as a blanket exemption or prohibition of SBIR/STTR participation related to the acquisition of effort on national security or intelligence functions except as specifically defined under § 9(e)(2) of the Act, 15 U.S.C. 638(e)(2). Agency technology managers directing R/R&D projects under the SBIR and STTR programs, where the project subject matter may be affected by this exemption, must first make a determination on which, if any, of the standardized proceedings clearly place national security and intelligence functions in jeopardy, and then proceed with an acceptable modified process to complete the SBIR/STTR action. SBA's SBIR/STTR program monitoring activities, except where prohibited by security considerations, must include a review of nonconforming SBIR/STTR actions justified under this public law provision.

(k) *Management of the STTR Project* [STTR only]. The SBC, and not its partnering Research Institution(s), is to provide satisfactory evidence that it will exercise management direction and control of the performance of the STTR funding agreement. Regardless of the proportion of the work or funding allocated to each of the performers under the funding agreement, the SBC is to be the primary party with overall responsibility for performance of the project. All agreements between the SBC and the Research Institution cooperating in the STTR funding agreement, or any business plans reflecting agreements and responsibilities between the parties during performance of STTR Phase I or Phase II funding agreement, or for the commercialization of the resulting technology, should reflect the controlling position of the SBC.

8. Terms of Agreement Under SBIR/STTR Awards

(a) *Proprietary Information Contained in Proposals.* The standardized SBIR/STTR Program solicitation shall include provisions requiring the confidential treatment of any proprietary information to the extent permitted by law. The solicitation will require that all proprietary information be identified clearly and marked with a prescribed legend. Agencies may elect to require SBCs to limit proprietary information to that essential to the proposal and to have such information submitted on a separate page or pages keyed to the text. The Government, except solely for proposal review purposes, shall not use or disclose, or authorize any other person or entity to use or disclose, all proprietary information, regardless of type, submitted in a contract proposal or grant application for a funding agreement under the SBIR/STTR programs.

(b) *Rights in Data Developed under An SBIR/STTR Funding Agreement.*

(1) *General.* The Act provides for retention by an SBC Awardee of the rights to data generated by the concern in the performance of an SBIR/STTR award. These data rights provide an incentive for SBCs to participate in Federally-funded research projects and contribute to the ability of small business Awardees to commercialize the technology developed under the program. The central purpose of SBIR/

STTR Data Rights is to provide the Federal Government with the degree of access to an Awardee's SBIR/STTR Data needed to evaluate the work and effectively utilize the results and at the same time ensure that the Federal Government or competitors of the SBIR/STTR Awardee cannot use SBIR/STTR Data in ways (*e.g.*, for commercial purposes or to produce future technical procurement specifications) that would inappropriately diminish the rights or associated economic opportunities of the small business that developed the data. The data rights provisions and definitions provided in this PD are designed to ensure that, for properly marked SBIR/STTR Data, during the SBIR/STTR Protection Period, the Government provides effective protection of the data that is comparable to and at least as strong as the protection the Government gives to delivered proprietary data that is developed exclusively at private expense.

(2) *Application of SBIR/STTR Data Rights.* SBIR/STTR Agencies must ensure that awardees of an SBIR/STTR funding agreement retain appropriate proprietary rights for all SBIR/STTR Data generated in the performance of the award. In general, this results in the Government receiving SBIR/STTR Data Rights in all SBIR/STTR Data during the SBIR/STTR Protection Period, except for certain types of Data that are not subject to such data rights restrictions due to the nature of the data (*e.g.*, Form, Fit, and Function Data or Operations, Maintenance, Installation, and Training Purposes (OMIT Data). SBIR/STTR Data Rights apply to all SBIR/STTR awards, including subcontracts or subgrants to such awards, that fall within the statutory definition of Phase I, II, or III of the SBIR/STTR programs, as described in § 4 of this Policy Directive. The scope and extent of the SBIR/STTR Data Rights applicable to Federally-funded Phase III awards are identical to the SBIR/STTR Data Rights applicable to Phases I and II SBIR/STTR awards. SBIR/STTR Data Rights provide license rights to the Federal Government. SBIR/STTR Data Rights restrict the Federal Government's use and release of properly marked SBIR/STTR Data only during the SBIR/STTR Protection Period; after the Protection Period the Government receives Unlimited Rights in that data. The Government receives Unlimited Rights in all unmarked data.

(3) *SBIR/STTR Data Rights—Main Elements:*

(A) An SBC retains title and ownership of all SBIR/STTR Data it develops or generates in the performance of an SBIR/STTR award. The SBC retains all rights in SBIR/STTR Data that are not granted to the Government in accordance with this Policy Directive. These rights of the SBC do not expire.

(B) The Government receives SBIR/STTR Data Rights during the SBIR/STTR Protection Period on all appropriately marked SBIR/STTR Data. These rights enable the Federal Government to use SBIR/STTR Data in limited ways within the Government, such as for project evaluation purposes, but are intended to prohibit uses and disclosures that can result in the disclosure of the SBIR/STTR Data that may undermine the SBC's future commercialization of the associated technology. The Government receives Unlimited Rights in all unmarked data.

(C) After the SBIR/STTR Protection Period has expired, the Federal Government receives Unlimited Rights in SBIR/STTR Data that was subject to SBIR/STTR Data Rights during the protection period. Unlimited Rights allows for any type of use or release of the SBIR/STTR Data within the Government, and permits the Government to release SBIR/STTR Data outside the Government, and to authorize others to use that data, for any purpose.

(4) *SBIR/STTR Protection Period.* The SBIR/STTR Protection Period begins with award of an SBIR/STTR funding agreement and ends twelve years, or longer at the discretion of the Funding Agency, after acceptance of the last deliverable under that agreement (either Phase I, Phase II, or Federally-funded SBIR/STTR Phase III) unless, subsequent to the award, the agency negotiates for some other protection period for the SBIR/STTR Data.

(5) *Marking Requirements, and Requirements for Omitted or Incorrect Markings.* To receive the protections accorded to SBIR/STTR Data pursuant to SBIR/STTR Data Rights, any SBIR/STTR Data that is delivered must be marked with the appropriate SBIR/STTR Data Rights legend or notice, in accordance with agency procedures. The Government assumes no liability for the access, use, modification, reproduction, release, performance, display, disclosure, or distribution of SBIR/STTR Data delivered without markings. If SBIR/STTR Data is delivered without the required legend or notice, the SBIR/STTR Awardee may, within 6 months of such delivery (or a longer period approved by the agency for good cause shown), request to have an omitted SBIR/STTR Data legend or notice, as applicable, placed on qualifying Data. If SBIR/STTR Data is delivered with an incorrect or nonconforming legend or notice, the agency may correct, or permit correction at the awardee's expense, of such incorrect or nonconforming notice(s).

(6) *Negotiated Rights.*

(A) Specially Negotiated Licenses Authorized Only After Award. An agency must not, in any way, make issuance of an SBIR/STTR award conditional upon the Awardee negotiating or consenting to negotiate a specially negotiated license or other agreement regarding SBIR/STTR Data. The negotiation of any such specially negotiated license agreements shall be permitted only after award.

(B) Following issuance of an SBIR/STTR award, the Awardee may enter into a written agreement with the awarding agency to modify the license rights that would otherwise be granted to the agency during the Protection Period. However, any such agreement must be entered into voluntarily and by mutual agreement of the SBIR/STTR Awardee and agency, and not a condition for additional work under the funding agreement or the exercise of options. Such a bilateral data rights agreement must be entered into only after the subject SBIR/STTR award (which award must include an appropriate SBIR/STTR Data Rights clause) has been signed. Any such specially negotiated license must be in writing under a separate agreement after the SBIR/STTR funding agreement is signed. A decision by the awardee to relinquish, transfer, or modify in any way its rights in SBIR/STTR Data must be made without pressure or coercion by the agency or any other party. Any provision in a competitive non-SBIR or SBIR solicitation that would have the effect of diminishing SBIR/STTR Data Rights shall have no effect on the provision of SBIR/STTR Data Rights in a resulting Phase I, Phase II, or Phase III award.

(7) *SBIR/STTR Data Rights Clause.* To ensure that SBIR/STTR Awardees receive the applicable data rights, all SBIR and STTR solicitations and resulting funding agreements must fully implement all of the policies, procedures, and requirements set forth in this Policy Directive in appropriate provisions and clauses incorporated into the SBIR/STTR solicitations and awards. Paragraph (5)(d)(3) of Appendix I: Instructions for Preparation of SBIR/STTR Program Solicitations provides a sample SBIR/STTR data rights clause containing the key elements that must be reflected in the clause used in agency solicitations. SBA will report to the Congress any attempt or action by an agency, that it is aware of, to condition an SBIR or STTR award on the negotiation of lesser data rights or to

exclude the appropriate data rights clause from the award.

(c) *Nondisclosure Agreement for Releases Outside the Government.* In accordance with the Government's SBIR/STTR Data Rights, the Government must enter into an appropriate nondisclosure agreement (NDA) with any non-governmental entity that is authorized to receive SBIR/STTR Data (that is subject to SBIR/STTR Data Rights) during the SBIR/STTR Protection Period, except as otherwise permitted by the Awardee asserting the SBIR/STTR Data Rights. The NDA must contain terms and conditions to ensure that the non-governmental entity:

(1) Understands, acknowledges, and agrees that it's use, modification, reproduction, release, display, disclosure, and distribution of the SBIR/STTR Data is permitted only for the specific activities authorized by the NDA (which must be authorized by SBIR/STTR Data Rights, or otherwise authorized by the SBIR/STTR Awardee);

(2) Is prohibited from further using, modifying, reproducing, releasing, displaying, disclosing, or distributing the data unless it receives the written permission of the Government (when authorized by the SBIR/STTR Awardee) or the written permission of the SBIR/STTR Awardee;

(3) Agrees to destroy (or return to the Government at the request of the Government), all SBIR/STTR Data, and all copies in its possession, at or before the time specified in the agreement, and to notify the procuring agency that all copies have been destroyed (or returned as requested by the Government);

(4) Is prohibited from using the data for a commercial purpose unless it receives the written permission of the Government (when authorized by the SBIR/STTR Awardee) or the written permission of the SBIR/STTR Awardee itself; and

(5) Ensures that its employees, subcontractors, and other entities that are authorized to receive SBIR/STTR Data are bound by use and nondisclosure restrictions consistent with the NDA prior to being provided access to such SBIR/STTR Data.

(d) *[STTR only] Allocation of Intellectual Property Rights in STTR Award.*

(1) An SBC, before receiving an STTR award, must negotiate a written agreement between the SBC and the partnering Research Institution, allocating intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization. The SBC must submit this agreement to the awarding agency with the proposal. The SBC must certify in all proposals that the agreement is satisfactory to the SBC.

(2) The awarding agency may accept an existing agreement between the two parties if the SBC certifies its satisfaction with the agreement, and such agreement does not conflict with the interests of the Government. SBA will provide a model agreement to be adopted by the agencies and used as guidance by the SBC in the development of an agreement with the Research Institution. The model agreement will direct the parties to, at a minimum:

(A) State specifically the degree of responsibility, and ownership of any product, process, or other invention or innovation resulting from the cooperative research. The degree of responsibility shall include responsibility for expenses and liability, and the degree of ownership shall also include the specific rights to revenues and profits.

(B) State which party may obtain United States or foreign patents or otherwise protect any inventions resulting from the cooperative research.

(C) State which party has the right to any continuation of research, including non-STTR follow-on awards.

(3) The Government will not normally be a party to any agreement between the SBC and the Research Institution. Nothing in the agreement is to conflict with any provisions setting forth the respective rights of the United States and the SBC with respect to intellectual property rights and with respect to any right to carry out follow-on research.

(e) *Title Transfer of Agency-Provided Property.* Under the Act, the Government may transfer title to property provided by the SBIR/STTR agency to the awardee or acquired by the awardee for the purpose of fulfilling the contract where such transfer would be more cost effective than recovery of the property.

(f) *Continued Use of Government Equipment.* Agencies must allow an SBIR/STTR Awardee participating in an SBIR/STTR Phase III award continued use, as a directed bailment, of any property transferred by the agency to the Phase II awardee or acquired by the awardee for the purpose of fulfilling the contract. The Phase II awardee may use the property for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of the SBIR/STTR program.

(g) *Grant Authority.* The Act does not, in and of itself, convey grant authority. Each agency must secure grant authority in accordance with its normal procedures.

(h) *Conflicts of Interest.* SBA cautions Participating Agencies that awards made to SBCs owned by or employing current or previous Federal Government employees may create conflicts of interest in violation of FAR Part 3 and the Ethics in Government Act of 1978, as amended. Each participating agency should refer to the standards of conduct review procedures currently in effect for its agency to ensure that such conflicts of interest do not arise.

(i) *American-Made Equipment and Products.* Congress intends that the awardee of a funding agreement under the SBIR/STTR program should, when purchasing any equipment or a product with funds provided through the funding agreement, purchase only American-made equipment and products, to the extent possible, in keeping with the overall purposes of this program. Each SBIR/STTR agency must provide to each awardee a notice of this requirement.

(j) *Certifications After Award and During Funding Agreement Lifecycle.*

(1) A Phase I funding agreement must state that the awardee shall submit a new certification as to whether it is in compliance with specific SBIR/STTR program requirements at the time of final payment or disbursement.

(2) A Phase II funding agreement must state that the awardee shall submit a new certification as to whether it is in compliance with specific SBIR/STTR program requirements prior to receiving more than 50% of the total award amount and prior to final payment or disbursement.

(3) Agencies may also require additional certifications at other points in time during the life cycle of the funding agreement, such as at the time of each payment or disbursement.

(k) *Updating www.SBIR.gov.* Agencies must require each Phase II awardee to update the commercialization information on the award through the company's account on *www.SBIR.gov* upon completion of the last deliverable under the funding agreement. In addition, the awardee is requested to voluntarily update the commercialization information on that award annually thereafter for a minimum period of 5 years.

(l) *Prototypes.* Participating agencies must handle all prototypes developed under an SBIR/STTR award with caution during the SBIR/STTR Protection Period to prevent any use or disclosure of these items that has the potential to reveal the innovative aspects of the technology in ways that may harm the awardee's ability to commercialize the technology. In particular, reverse engineering of prototypes may reveal, to a Government or non-Government entity, the SBIR/STTR Data that is applied or embodied in the item. While a prototype may not itself be considered SBIR/STTR Data because it is not "recorded information," SBA cautions agencies that it is a violation of the purpose and intent of the Small Business Act to release or use a prototype during the SBIR/STTR Protection Period in a way that harms the awardee's ability to take advantage of the economic opportunities of its SBIR/STTR Data. SBA notes that the DFARS Restricted Rights license granted to the Government for computer software prohibits non-governmental entities from reverse-engineering, disassembly, or decompiling Computer Software, except in extremely limited circumstances.

9. Responsibilities of SBIR/STTR Agencies and Departments

(a) *General Responsibilities.* Each agency participating in the SBIR/STTR program must:

(1) Unilaterally determine the categories of projects to be included in its SBIR/STTR program, giving consideration to maintaining a portfolio balance between exploratory projects of high technological risk and those with greater likelihood of success. Further, to the extent permitted by the law, and in a manner consistent with the mission of that agency and the purpose of the SBIR/STTR program, each Federal agency must:

(i) give priority in the SBIR/STTR program to manufacturing-related research and development in accordance with Executive Order 13329. In addition, agencies must develop an Action Plan for implementing Executive Order 13329, which identifies activities used to give priority in the SBIR/STTR program to manufacturing-related research and development. These activities should include the provision of information on the Executive Order on the agency's SBIR/STTR program Web site.

(ii) give priority to small business concerns that participate in or conduct energy efficiency or renewable energy system research and development projects.

(iii) give consideration to topics that further one or more critical technologies as identified by the National Critical Technologies panel (or its successor) in reports required under 42 U.S.C. 6683, or the Secretary of Defense in accordance with 10 U.S.C. 2522.

(2) Release SBIR/STTR solicitations in accordance with the SBA master schedule.

(3) Unilaterally receive and evaluate proposals resulting from program solicitations, select awardees, issue funding agreements, and inform each awardee under such agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement.

(4) Require a succinct commercialization plan with each proposal submitted for a Phase II award.

(5) Collect and maintain information from applicants and awardees and provide it to SBA to develop and maintain the database, as identified in § 11(c) of this Policy Directive.

(6) Administer its own SBIR/STTR funding agreements or delegate such administration to another agency.

(7) Include provisions in each SBIR/STTR funding agreement setting forth the respective rights of the United States and the awardee with respect to intellectual property rights and with respect to any right to carry out follow-on research.

(8) Ensure that the rights in data developed under each Federally-funded SBIR/STTR Phase I, Phase II, and Phase III award are protected properly.

(9) Make payments to awardees of SBIR/STTR funding agreements on the basis of progress toward or completion of the funding agreement requirements and in all cases make payment to awardees under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of such requirements.

(10) Provide an annual report on the SBIR/STTR program to SBA, as well as other information concerning the SBIR/STTR program. *See* § 10 of this Policy Directive for further information on the agency's reporting requirements, including the frequency for specific reporting requirements.

(11) Include in its annual performance plan required by 31 U.S.C. 1115(a) and (b) a section on its SBIR/STTR program, and submit such section to the Senate Committee on Small Business and Entrepreneurship and to the House Committees on Science, Space and Technology and Small Business.

(12) Establish the agency's benchmarks for progress towards commercialization and include the information necessary to implement the benchmarks in each solicitation. *See* § 6(a)(7) of the directive for further information.

(b) *Discretionary technical assistance to SBIR/STTR Awardees.*

(1) Agencies may enter into agreements with vendors to provide technical assistance to SBIR/STTR Awardees, which may include access to a network of scientists and engineers engaged in a wide range of technologies or access to technical and business literature available through on-line data bases. Each agency may select a vendor for a term not to exceed 5 years. The vendor must be selected using competitive and merit-based criteria.

(i) The purpose of this technical assistance is to assist SBIR/STTR Awardees in:

(A) making better technical decisions on SBIR/STTR projects;

(B) solving technical problems that arise during SBIR/STTR projects;

(C) minimizing technical risks associated with SBIR/STTR projects; and

(D) commercializing the SBIR/STTR product or process.

(ii) An agency may not enter into a contract with the vendor if the contract amount provided for technical assistance is based upon the total number of Phase I or Phase II awards, but may enter into a contract with the vendor based upon the total amount of awards for which assistance is provided.

(2) Each agency may provide up to $5,000 of SBIR/STTR funds for the technical assistance described above in (b)(1) per year for each Phase I award and each Phase II award. The amount will be in addition to the award and will count as part of the agency's SBIR/STTR funding, unless the agency funds the technical assistance using non-SBIR/STTR funds. The agency may not use SBIR/STTR funds for technical assistance unless the vendor provides the services to the SBIR/STTR Awardee.

(3) An SBIR/STTR applicant may acquire the technical assistance services set forth in (b)(1)(i) above itself and not through the vendor selected by the Federal agency. The applicant must request this authority from the Federal agency and demonstrate in its SBIR/STTR application that the individual or entity selected can provide the specific technical services needed. If the awardee demonstrates this requirement sufficiently, the agency shall permit the awardee to acquire such technical assistance itself, in an amount up to $5,000, as an allowable cost of the SBIR/STTR award. The per year amount will be in addition to the award and will count as part of the agency's SBIR/STTR funding, unless the agency funds the technical assistance using non-SBIR/STTR funds.

(c) Agencies must publish the information relating to timelines for awards of Phase I and Phase II funding agreements and performance start dates of the funding agreements that are reported to SBA in the agency's Annual Report (*see* § 10(a) of the directive). SBA will also publish this information on *www.SBIR.gov.*

(d) *Interagency actions.*

(1) *Joint funding.* An SBIR/STTR project may be financed by more than one Federal agency. Joint funding is not required but can be an effective arrangement for some projects.

(2) *Phase II awards.* An SBIR/STTR Phase II award may be issued by a Federal agency other than the one that made the Phase I award. Prior to award, the head of the Federal agency for the Phase I and Phase II awards, or designee, must issue a written determination that the topics of the awards are the same. Both agencies must submit the report to SBA.

(3) *Participation by WOSBs and SDBs in the SBIR/STTR Program.* In order to meet statutory requirements for greater inclusion, SBA and the Federal participating agencies must conduct outreach efforts to find and place innovative WOSBs and SDBs in the SBIR/STTR program. These SBCs will be required to compete for SBIR/STTR awards on the same basis as all other SBCs. However, SBIR/STTR agencies are encouraged to work independently and cooperatively with SBA to develop methods to encourage qualified WOSBs and SDBs to participate in the SBIR/STTR program.

(e) *Limitation on use of funds.*

(1) Each SBIR/STTR agency must expend the required minimum percent of its extramural budget on awards to SBCs. Agencies may not make available for the purpose of meeting the minimum percent an amount of its extramural budget for basic research that exceeds the minimum percent. Funding agreements with SBCs for R/R&D that result from competitive or single source selections other than an SBIR/STTR program must not be considered to meet any portion of the required minimum percent.

(2) An agency must not use any of its SBIR/STTR budget for the purpose of funding administrative costs of the program, including costs associated with program operations, employee salaries, and other associated expenses, unless the exception in paragraph (3) below or § 12(b)(4)(ii) applies.

(3) *Pilot To Allow for Funding of Administrative, Oversight, and Contract Processing Costs.* Beginning on October 1, 2012 and ending on September 30, 2017, and upon establishment by SBA of the agency-specific performance criteria, SBA shall allow an SBIR Federal agency to use no more than 3% of its SBIR budget for one or more specific activities, which may be prioritized by the federal SBIR/STTR Interagency Policy Committee. The purpose of this pilot program is to assist with the substantial expansion in commercialization activities, prevention of fraud/waste/abuse, expansion of reporting requirements by agencies and other agency activities required for the SBIR program. Funding under this pilot is not intended to and must not replace current agency administrative funding in support of SBIR/STTR activities. Rather, funding under this pilot program is intended to supplement such funds.

(i) A Federal agency may use this money to fund the following specific activities:

(A) SBIR and STTR program administration, which includes:

(I) internal oversight and quality control, such as verification of reports and invoices and cost reviews, and waste/fraud/abuse prevention (including targeted reviews of SBIR or STTR awardees that an agency determines are at risk for waste/fraud/abuse);

(II) carrying out any activities associated with the participation by small businesses that are majority-owned by multiple venture capital operating companies, hedge funds or private equity firms;

(III) contract processing costs relating to the SBIR or STTR program of that agency, which includes supplementing the current workforce to assist solely with SBIR or STTR funding agreements;

(IV) funding of additional personnel to work solely on the SBIR/STTR program of that agency, which includes assistance with application reviews; and

(V) funding for simplified and standardized program proposal, selection, contracting, compliance, and audit procedures for the SBIR/STTR program, including the reduction of paperwork and data collection.

(B) STTR or SBIR program-related outreach and related technical assistance initiatives not in effect prior to commencement of this pilot, except significant expansion or improvement of these initiatives, including:

(I) technical assistance site visits;

(II) personnel interviews;

(III) national conferences;

(C) Commercialization initiatives not in effect prior to commencement of this pilot, except significant expansion or improvement of these initiatives.

(D) For DoD and the military departments, carrying out the Commercialization Readiness Program set forth in 12(b) of this directive, with emphasis on supporting new initiatives that address barriers in bringing SBIR/STTR technologies to the marketplace, including intellectual property issues, sales cycle access issues, accelerated technology development issues, and other issues.

(ii) Agencies must use this money to attempt to increase participation by SDBs and WOSBs in the SBIR/STTR program, and small businesses in states with a historically low level of SBIR/STTR awards. The agency may submit a written request to SBA to waive this requirement. The request must explain why the waiver is necessary, demonstrate a sufficient need for the waiver, and explain that the outreach objectives of the agency are being met and that there has been increased participation by small businesses in states with a historically low level of SBIR/STTR awards.

(iii) SBA will establish performance criteria each fiscal year by which use of these funds will be evaluated for that fiscal year. The performance criteria will be metrics that measure the performance areas required by statute against the goals set by the agencies in their work plans. The performance criteria will be based upon the work plans submitted by each agency for a given fiscal year and will be agency-specific. SBA will work with the SBIR/STTR agencies in creating a simplified template for agencies to use when making their work plans.

(iv) Each agency must submit its work plan to SBA at least 30 calendar days prior to the start of each fiscal year for which the pilot program is in operation. Agency work plans must include the following: a prioritized list of initiatives to be supported; the estimated percentage of administrative funds to be allocated to each initiative or the estimated amounts to be spent on each initiative; milestones for implementing the initiatives; the expected results to be achieved; and the assessment metrics for each initiative. The work plan must identify initiatives that are above and beyond current practice and which enhance the agency's SBIR/STTR program.

(v) SBA will evaluate the work plan and provide initial comments within 15 calendar days of receipt of the plan. SBA's objective in evaluating the work plan is to ensure that, overall, it provides for improvements to the SBIR/STTR program of that particular agency. If SBA does not provide initial comments within 30 calendar days of receipt of the plan, the work plan is deemed to be approved. If SBA does submit initial comments within 30 calendar days, agencies must amend or supplement their work plan and resubmit to SBA. Once SBA establishes the agency-specific performance criteria to measure the benefits of the use of these funds under the work plan, the agency may begin using the SBIR funds for the purposes set forth in the work plan. Agencies can adjust their work plans and spending throughout the fiscal year as needed, but must notify SBA of material changes in the plan.

(vi) Agencies must coordinate any activities in the work plan that relate to fraud, waste, and abuse prevention, targeted reviews of awardees, and implementation of oversight control and quality control measures (including verification of reports and invoices and cost reviews) with the agency's Office of Inspector General (OIG). If the agency allocates more than $50,000,000 to its SBIR program for a fiscal year, the agency may share this funding with its OIG when the OIG performs the activities.

(vii) Agencies shall report to the Administrator on use of funds under this authority as part of the SBIR/STTR Annual Report. *See* § 10 generally and § 10(i).

(4) An agency must not issue an SBIR/STTR funding agreement that includes a provision for subcontracting any portion of that agreement back to the issuing agency, to any other Federal Government agency, or to other units of the Federal Government, except as provided in paragraph (f)(5) below. SBA may issue a case-by-case waiver to this provision after review of an agency's written justification that includes the following information:

(i) An explanation of why the SBIR/STTR research project requires the use of the Federal facility or personnel, including data that verifies the absence of non-federal facilities or personnel capable of supporting the research effort.

(ii) Why the Agency will not and cannot fund the use of the federal facility or personnel for the SBIR/STTR project with non-SBIR/STTR money.

(iii) The concurrence of the SBC's chief business official to use the federal facility or personnel.

(5) An agency may issue an SBIR/STTR funding agreement to a small business concern that intends to enter into an agreement with a Federal laboratory to perform portions of the award or has entered into a cooperative research and development agreement (*see* 15 U.S.C. 3710a(d)) with a Federal laboratory, only if there is compliance with the following.

(i) The agency may not require that the small business concern enter into an agreement with any Federal laboratory to perform any portion of an SBIR/STTR award, as a condition for an SBIR/STTR award.

(ii) The agency may not issue an SBIR/STTR award or approve an agreement between an SBIR/STTR Awardee and a Federal laboratory if the small business concern will not meet the minimum performance of work requirements set forth in § 6(a)(4) of this directive.

(iii) The agency may not issue an SBIR/STTR award or approve an agreement between an SBIR/STTR Awardee and a Federal laboratory that violates any SBIR/STTR requirement set forth in statute or the Policy Directive, including any SBIR/STTR data rights protections.

(iv) The agency and Federal laboratory may not require any SBIR/STTR Awardee that has an agreement with the Federal laboratory to perform portions of the activities under the SBIR/STTR award to provide advance payment to the Federal laboratory in an amount greater than the amount necessary to pay for 30 days of such activities.

(6) No agency, at its own discretion, may unilaterally cease participation in the SBIR/STTR program. R/R&D agency budgets may cause fluctuations and trends that must be reviewed in light of SBIR/STTR program purposes. An agency may be considered by SBA for a phased withdrawal from participation in the SBIR/STTR program over a period of time sufficient in duration to minimize any adverse impact on SBCs. However, the SBA decision concerning such a withdrawal will be made on a case-by-case basis and will depend on significant changes to extramural R/R&D 3-year forecasts as found in the annual Budget of the United States Government and National Science Foundation breakdowns of total R/R&D obligations as published in the Federal Funds for Research and Development. Any withdrawal of an SBIR/STTR agency from the SBIR/STTR program will be accomplished in a standardized and orderly manner in compliance with these statutorily mandated procedures.

(7) Federal agencies not otherwise required to participate in the SBIR/STTR program may participate on a voluntary basis. Federal agencies seeking to participate in the SBIR/STTR program must first submit their written requests to SBA. Voluntary participation requires the written approval of SBA.

(f) *Preventing Fraud, Waste, and Abuse.*

(1) Agencies shall evaluate risks of fraud, waste, and abuse in each application, monitor and administer SBIR/STTR awards, and create and implement policies and procedures to prevent fraud, waste and abuse in the SBIR/STTR program. To capitalize on OIG expertise in this area, agencies must consult with their OIG when creating such policies and procedures. Fraud includes any false representation about a material fact or any intentional deception designed to deprive the United States unlawfully of something of value or to secure from the United States a benefit, privilege, allowance, or consideration to which an individual or business is not entitled. Waste includes extravagant, careless, or needless expenditure of Government funds, or the consumption of Government property, that results from deficient practices, systems, controls, or decisions. Abuse includes any intentional or improper use of Government resources, such as misuse of rank, position, or authority or resources. Examples of fraud, waste, and abuse relating to the SBIR/STTR program include, but are not limited to:

(i) misrepresentations or material, factual omissions to obtain, or otherwise receive funding under, an SBIR/STTR award;

(ii) misrepresentations of the use of funds expended, work done, results achieved, or compliance with program requirements under an SBIR/STTR award;

(iii) misuse or conversion of SBIR/STTR award funds, including any use of award funds while not in full compliance with SBIR/STTR program requirements, or failure to pay taxes due on misused or converted SBIR/STTR award funds;

(iv) fabrication, falsification, or plagiarism in applying for, carrying out, or reporting results from an SBIR/STTR award;

(v) failure to comply with applicable federal costs principles governing an award;

(vi) extravagant, careless, or needless spending;

(vii) self-dealing, such as making a sub-award to an entity in which the PI has a financial interest;

(viii) acceptance by agency personnel of bribes or gifts in exchange for grant or contract awards or other conflicts of interest that prevents the Government from getting the best value; and

(ix) lack of monitoring, or follow-up if questions arise, by agency personnel to ensure that awardee meets all required eligibility requirements, provides all required certifications, performs in accordance with the terms and conditions of the award, and performs all work proposed in the application.

(2) At a minimum, agencies must:

(i) Require certifications from the SBIR/STTR Awardee at the time of award, as well as after award and during the funding agreement lifecycle (*see* § 8(i) and Appendix I for more information);

(ii) Include on their respective SBIR/STTR Web page and in each solicitation, information explaining how an individual can report fraud, waste and abuse as provided by the agency's OIG (*e.g.,* include the fraud hotline number or web-based reporting method for the agency's OIG);

(iii) Designate at least one individual in the agency to, at a minimum, serve as the liaison for the SBIR/STTR program, the OIG and the agency's Suspension and Debarment Official (SDO) and ensure that inquiries regarding fraud, waste and abuse are referred to the OIG and, if applicable, the SDO.

(iv) Include on their respective SBIR/STTR Web page information concerning successful prosecutions of fraud, waste and abuse in the SBIR or STTR programs.

(v) Establish a written policy requiring all personnel involved with the SBIR/STTR program to notify the OIG if anyone suspects fraud, waste, and/or abuse and ensure the policy is communicated to all SBIR/STTR personnel.

(vi) Create or ensure there is an adequate system to enforce accountability (through suspension and debarment, fraud referrals or other efforts to deter wrongdoing and promote integrity) by developing separate standardized templates for a referral made to the OIG for fraud, waste and abuse or the SDO for other matters, and a process for tracking such referrals.

(vii) Ensure compliance with the eligibility requirements of the program and the terms of the SBIR/STTR funding agreement.

(viii) Work with the agency's OIG with regard to its efforts to establish fraud detection indicators, coordinate the sharing of information between Federal agencies, and improve education and training to SBIR/STTR program officials, applicants and awardees;

(ix) Develop policies and procedures to avoid funding essentially equivalent work already funded by another agency, which could include: searching SBIR.GOV prior to award for the applicant (if a joint venture, search for each party to the joint venture), key individuals of the applicant, and similar abstracts; using plagiarism or other software; checking the SBC's certification prior to award and funding and documenting the funding agreement file that such certification evidenced the SBC has not already received funding for essentially equivalent work; reviewing other agency's policies and procedures for best practices; and reviewing other R&D programs for policies and procedures and best practices related to this issue; and

(x) Consider enhanced reporting requirements during the funding agreement.

(g) *Interagency Policy Committee.* The Director of the Office of Science and Technology Policy (OSTP) will establish an Interagency SBIR/STTR Policy Committee, which will include representatives from Federal agencies with an SBIR or an STTR program and SBA. The Interagency SBIR/STTR Policy Committee shall review the following issues (but may review additional issues) and make policy recommendations on ways to improve program effectiveness and efficiency:

(1) The *www.SBIR.gov* databases described in § 9(k) of the Small Business Act (15 U.S.C. 638(k));

(2) Federal agency flexibility in establishing Phase I and II award sizes, including appropriate criteria for exercising such flexibility;

(3) Commercialization assistance best practices of Federal agencies with significant potential to be employed by other agencies and the appropriate steps to achieve that leverage, as well as proposals for new initiatives to address funding gaps that business concerns face after Phase II but before commercialization.

(4) The need for a standard evaluation framework to enable systematic assessment of SBIR and STTR, including through improved tracking of awards and outcomes and development of performance measures for the SBIR program and STTR program of each Federal agency.

(5) Outreach and technical assistance activities that increase the participation of small businesses underrepresented in the SBIR and STTR programs, including the identification and sharing of best practices and the leveraging of resources in support of such activities across agencies.

(h) *National Academy of Science Report.* The National Academy of Sciences (NAS) will conduct a study and issue reports on the SBIR and STTR programs.

(1) Prior to and during the period of study, and to ensure that the concerns of small business are appropriately considered, NAS shall consult with and consider the views of SBA's Office of Investment and Innovation and the Office of Advocacy and other interested parties, including entities, organizations, and individuals actively engaged in enhancing or developing the technological capabilities of small business concerns.

(2) The head of each agency with a budget of more than $50,000,000 for its SBIR program for fiscal year 1999 shall, in consultation with SBA, and not later than 6 months after December 31, 2011, cooperatively enter into an agreement with NAS regarding the content and performance of the study. SBA and the agencies will work with the Interagency Policy Committee in determining the parameters of the study, including the specific areas of focus and priorities for the broad topics required by statute. The agreement with NAS must set forth these parameters, specific areas of focus and priorities, and comprehensively address the scope and content of the work to be performed. This agreement must also require the NAS to ensure there is participation by and consultation with, the small business community, the SBA, and other interested parties as described in paragraph (1).

(3) NAS shall transmit to SBA, heads of agencies entering into an agreement under this section, the Committee on Science, Space and Technology, the Committee on Small Business of the House of Representatives, and to the Committee on Small Business of the Senate a copy of the report, which includes the results and recommendations, not later than 4 years after December 31, 2011, and every subsequent four years.

10. Reporting Requirements—for Agencies, Applicants and Awardees

(a) *General.* The Small Business Act requires agencies to collect meaningful information from SBCs and ensure that reporting requirements are streamlined to minimize the burden on small businesses.

(1) SBA is required to collect data from agencies and report to the Congress information regarding applications by and awards to SBCs by each Federal agency participating in the SBIR/STTR program. Participating agencies report data using standardized templates that are provided, maintained, and updated by SBA on *www.SBIR.gov.*

(2) The Act requires a "simplified, standardized and timely annual report" from each Federal agency participating in the SBIR/STTR program (*see* § 3 for the definition of Federal agency), which is submitted to SBA. In addition, agencies are required to report certain items periodically throughout the year to SBA. Agencies may identify certain information, such as award data information, by the various components of each agency. SBA collects agency reports through the *www.SBIR.gov* portal. If the *www.SBIR.gov* databases are unavailable, then the report must be emailed to *technology@sba.gov.*

(3) To meet these requirements, the SBIR/STTR program has the following key principles:

(i) Make updating data available electronically;

(ii) Centralize and share certain data through secure interfaces to which only authorized government personnel have access;

(iii) Have small business enter the data only once, if possible; and

(iv) Provide standardized procedures.

(b) *Summary of SBIR/STTR Databases.*

(1) The Act requires that SBA coordinate the implementation of electronic databases at the SBIR/STTR agencies, including the technical ability of the agencies to share the data. In addition, the Act requires the reporting of various data elements, which are clustered together in the following subsections:

(i) Solicitations Database (to include the Master Schedule);

(ii) *www.SBIR.gov,* which includes the following databases:

(A) Company Registry Database;

(B) Application Information Database;

(C) Award Information Database;

(D) Commercialization Database;

(E) Annual Report Database; and

(F) Other Reporting Requirements Database.

(2) The subsections below describe the data reporting requirements, including reporting mechanisms, the frequency of data collection and reporting, and whether this information is shared publicly or is protected and only available to authorized personnel. The table below summarizes the data collection requirements for each database; however, there may be some divergences at the individual data field level. Refer to Appendix II the detailed reporting requirements at the data field level. SBA notes that in fiscal year 2012, SBA began a phased implementation of this data collection.

Database	Reporting Mechanism	Collection/Reporting Frequency	Public/Government
Solicitations	Agency XML or manual upload to http://www.SBIR.gov.	Within 5 business days of solicitation open date	Public.
Company Registry	SBC reports data to www.SBIR.gov. Agency receives .pdf from company.	Register or reconfirm at time of application	Government only.
Application Information	Agency provides XML or manual upload to www.SBIR.gov.	Quarterly	Government only.
Award Information	XML or manual upload to www.SBIR.gov	Quarterly	Public.
Commercialization	Agencies + companies report to www.SBIR.gov	Agencies update in real time SBC updates prior to subsequent award application and voluntarily thereafter.	Government only.
Annual Report	Agency XML or manual upload to www.SBIR.gov.	Annually	Public.
Other Reports	As set forth in the directive	As set forth in the directive	Public.

(3) SBIR/STTR Awardees will have user names and passwords assigned in order to access their respective awards information in the system. Award and commercialization data maintained in the database can be changed only by the awardee, SBA, or the awarding SBIR/STTR Federal agency.

(c) *Master Schedule & the Solicitations Database.*

(1) SBA posts an electronic Master Schedule of release dates of program solicitations with links to Internet Web sites of agency solicitations on *www.SBIR.gov.*

(i) On or before August 1, each agency representative must notify SBA in writing or by email of its proposed program solicitation release and proposal due dates for the next fiscal year. SBA and the agency representatives will coordinate the resolution of any conflicting agency solicitation dates by the second week of August. In all cases, SBA will make final decisions. Agencies must notify SBA in writing of any subsequent changes in the solicitation release and close dates.

(ii) For those agencies that use both general topic and more specific subtopic designations in their SBIR/STTR solicitations, the topic data should accurately describe the research solicited.

(iii) Agencies must post on their Internet Web sites the following information regarding each program solicitation:

(A) list of topics upon which R/R&D proposals will be sought;

(B) Agency address, phone number, or email address from which SBIR/STTR program solicitations can be requested or obtained, especially through electronic means;

(C) names, addresses, and phone numbers of agency contact points where SBIR/STTR-related inquiries may be directed;

(D) release date(s) of program solicitation(s);

(E) closing date(s) for receipt of proposals; and

(F) estimated number and average dollar amounts of Phase I awards to be made under the solicitation.

(2) SBA will manage a searchable public database that contains all solicitation and topic information from all SBIR/STTR agencies. Agencies are required to update the Solicitations Database, (available at *www.SBIR.gov*), within 5 business days of a solicitation's open date for applications and/or submissions for SBCs. Refer to Appendix II for detailed reporting requirements. The main data requirements include:

(i) type of solicitation—SBIR/STTR;

(ii) Phase—I or II;

(iii) topic description;

(iv) sub-topic description;

(v) Web site for further information; and

(vi) applicable contact information per topic or sub-topic, where applicable and allowed by law.

(d) *Company Registry Database.*

(1) SBA maintains and manages a company registry to track ownership and affiliation requirements for all companies applying to the SBIR/STTR program, including those that are majority-owned by multiple VCOCs, private equity firms, or hedge funds.

(2) Each SBC applying for a Phase I or Phase II award must register on *www.SBIR.gov* prior to submitting an application. The SBC will report and/or update ownership information to SBA prior to each SBIR/STTR application submission. The SBC can view the ownership and affiliation requirements of the program on the registry site.

(3) Data collected in the Company Registry Database will not be shared publicly. Refer to Appendix II for details on specific fields shared publicly.

(4) The SBC will save its information from the registration in a .pdf document

and will append this document to the application submitted to a given agency unless the information can be transmitted automatically to SBIR/STTR agencies.

(5) Refer to Appendix II for the required reporting fields. The main data requirements include:

(i) basic identifying information for the SBC;

(ii) the number of employees for the SBC;

(iii) whether the SBC has venture capital, hedge fund or private equity firm investment and if so, include:

(A) the percentage of ownership of the awardee held by the VCOC, hedge fund or private equity firm;

(B) the registration by the SBC of whether or not it is majority-owned by VCOCs, hedge funds, or private equity firms. Please note that this may be auto-populated through the individual calculations of investments in the SBC already submitted.

(iv) information on the affiliates of the SBC, including:

(A) the names of all affiliates of the SBC;

(B) the number of employees of the affiliates;

(e) *Application Information Database.*

(1) SBA will manage an Application Information Database on information on applications to the SBIR/STTR program across agencies.

(2) Each agency must upload application data to the Application Database at www.SBIR.gov at least quarterly.

(3) The data in the applicant database is only viewable to authorized government officials and not shared publicly.

(4) Refer to Appendix II for detailed reporting requirements. The main data requirements for each Phase I and Phase II application include:

(i) name, size, and location of the applicant, and the identifying number assigned;

(ii) an abstract and specific aims of the project;

(iii) name, title, contact information, and position in the small business of each key individual that will carry out the project;

(iv) percentage of effort each key individual identified will contribute to the project;

(v) Federal agency to which the application is made and contact information for the person responsible for reviewing applications and making awards under the program.

(5) The Application Information Database connects and cross-checks information with the Company Registry and government personnel can see connected data.

(f) *Award Information Database.*

(1) SBA manages a database on awards made within the SBIR/STTR program across agencies.

(2) Each agency must update the Award Information Database quarterly, if not more frequently.

(3) Most of the data available on the Award Information Database is viewable and searchable by the public on *www.SBIR.gov.*

(4) Refer to SBIR.gov for detailed reporting requirements. The data requirements for each Phase I and Phase II award include:

(i) information similar to the Application Information Database—if not already collected;

(ii) the name, size, and location of, and the identifying number assigned;

(iii) an abstract and specific aims of the project;

(iv) the name, title, contact information, and position in the small business of each key individual that will carry out the project;

(v) the percentage of effort each identified key individual will contribute to the project;

(vi) the Federal agency making the award;

(vii) award amount;

(viii) principal investigator identifying information—including name, email address, and demographic information;

(ix) detailed information on location of company;

(x) whether the awardee:

(A) has venture capital, hedge fund or private equity firm investment and if so, the amount of such investment received by SBC as of date of award and amount of additional capital awardee has invested in SBIR/STTR technology;

(B) is a WOSB or has a woman as a principal investigator;

(C) is an SDB or has a socially and economically disadvantaged individual as a principal investigator;

(D) is owned by a faculty member or a student of an institution of higher education as defined in 20 U.S.C. 1001); and

(E) has received the award as a result of the Commercialization Readiness Pilot Program for Civilian Agencies set forth in § 12(c) of the directive.

(xi) an identification of any business concern or subsidiary established for the commercial application of a product or service for which an SBIR or STTR award is made.

(5) The Award Information Database connects and cross-checks information with the Company Registry and Application Information Database, and government personnel can see connected data.

(g) *Commercialization Database.*

(1) The Commercialization Database stores information reported by awardees on the commercial activity resulting from their past SBIR/STTR awards.

(2) Commercialization data is inputted to this database in two ways: awardees enter their commercialization data directly into the commercialization database on www.SBIR.gov, and agencies can upload to the database at www.sbir.gov commercialization data they have collected from awardees.

(3) The Commercialization Database is currently maintained by SBA.

(4) Awardees are required to update this information on their prior Phase II awards in the Commercialization Database when submitting an application for an SBIR/STTR Phase II award and upon completion of the last deliverable for that award.

(5) Commercialization data at the company level will not be shared publicly. Aggregated data that maintains the confidentiality of companies may be reported in compliance with the statute.

(6) Refer to www.sbir.gov for the specific commercialization data reporting fields. The main data requirements include for every Phase II award:

(i) any business concern or subsidiary established for the commercial application of a product or service for which an SBIR/STTR award is made;

(ii) total revenue resulting from the sale of new products or services, or licensing agreements resulting from the research conducted under each Phase II award;

(iii) additional investment received from any source, other than Phase I or Phase II awards, to further the research and development conducted under each Phase II award;

(iv) any contract with the federal government marked as an SBIR/STTR Phase III award; and

(v) any narrative information that a Phase II awardee voluntarily submits to further describe the commercialization efforts of its awards and related research.

(7) The SBC may apportion sales or additional investment information relating to more than one Phase II award among those awards, if it notes the apportionment for each award. Companies are requested to update their records in this database on a voluntary basis for at least 5 years following the completion of award.

(8) Awardees will update their information and add project commercialization and sales data using their user names and passwords. SBA and SBIR/STTR agencies will coordinate data collection to ensure that

small businesses will not need to report the same data more than once.

(9) Note that the Award Information and Commercialization Databases will contain the data necessary for agencies to determine whether an applicant meets the agency's benchmarks for progress towards commercialization.

(h) *Agency Annual Report to SBA.*

(1) Agencies must submit their report to SBA on an annual basis and will report for the period ending September 30 of each fiscal year. The report is due to SBA no later than March 15 of each year. For example, the report for FY 2015 (October 1, 2014—September 30, 2015) must be submitted to SBA by March 15, 2016.

(2) SBA provides the Annual Report form to agencies through *www.SBIR.gov.* SBA reserves the right to modify the fields of the Annual Report data form beyond those identified in this directive.

(3) A number of the fields of the Annual Report template are pre-populated by SBA with data from the SBIR/STTR program database. SBA works with the agencies to resolve any data inconsistencies.

(4) The annual report includes the following:

(i) SBIR/STTR program dollars obligated through program funding agreements for Phase I, Phase II, and other uses of program funds, during the reporting fiscal year.

(ii) Number of topics and subtopics contained in each program solicitation.

(iii) Number of proposals received by the agency for each topic and subtopic in each program solicitation.

(iv) Agency total extramural R/R&D obligations for the reporting fiscal year including an explanation of its calculation and how it differs, if at all, from the amount reported to the National Science Foundation pursuant to the annual Budget of the United States Government.

(v) The minimum dollar amount the agency is required to obligate per fiscal year for the SBIR and STTR programs. This amount is calculated by applying the statutory per centum to the agency's total extramural R/R&D obligations made during the fiscal year (adjusted for the appropriate exclusions); and if the minimum amount was not met, the agency must provide the reasons why and an explanation of how the agency plans to meet the requirement in the future. Agencies may provide an explanation of the specific budgeting process their agency uses to allocate funds for the SBIR/STTR programs and describe any issues they may see with the compliance determination procedure.

(vi) For all applicants and awardees in the applicable fiscal year—where applicable, the name and address, solicitation topic and subtopic, solicitation number, project title, total dollar amount of funding agreement, and applicable demographic information. The agency is not required to re-submit applicant and award information in the annual report that it has already reported to SBA through *www.SBIR.gov* as required.

(vii) Justification for the award of any funding agreement exceeding the award guidelines set forth in § 7(i) of this directive, the amount of each award exceeding the guidelines, the identity and location of the awardee, whether the awardee has received any venture capital, hedge fund, or private equity firm investment, and whether the awardee is majority-owned by a venture capital operating company, hedge fund or private equity firm.

(viii) Justification for awards made under a topic or subtopic where the agency received only one proposal. Agencies must also provide the awardee's name and address, the topic or subtopic, and the dollar amount of award. Awardee information must be collected quarterly—in any case, but updated in the agency's annual reports.

(ix) All instances where the Phase II Awardee did not receive a Phase I award.

(x) All instances in which an agency pursued R/R&D, services, production, or any combination thereof of a technology developed under an SBIR/STTR award with an entity other than that Awardee. *See* § 9(a)(12) for minimum reporting requirements.

(xi) The number and dollar value of each SBIR/STTR and non-SBIR/STTR award (includes grants, contracts and cooperative agreements as well as any award issued under the Commercialization Program) over $10,000 and compare the number and amount of SBIR/STTR awards with awards to other than SBCs.

(xii) Information relating to the pilot to allow for funding of administrative, oversight, and contract processing costs, including the money spent on each activity and any other information required in the approved work plan to measure the benefits of using these funds for the specific activities—especially, as it pertains to the goals outlined in the work plan. *See* § 9(e)(3) concerning the Pilot to Allow for Funding of Administrative, Oversight, and Contract Processing Costs.

(xiii) *Outreach.* A description and the extent to which the agency is increasing outreach and awards to SDBs and WOSBs.

(xiv) *VCOC-owned.* General information about the implementation of and compliance with the allocation of funds for awardees that are majority-owned by multiple VCOCs, hedge funds or private equity firms.

(xv) *Phase III appeals.* Descriptive information on any appeals filed on Phase III awards pursuant to § 4(c)(7) of the directive and notices of noncompliance with the policy directive filed by SBA.

(xvi) *Phase III awards.* Information relating to each Phase III award made by that agency either as a prime or subcontract, including the name of the business receiving the Phase III award, the dollar amount, and the awarding agency or prime contractor.

(xvii) *Commercialization Programs.* An accounting of funds, initiatives, and outcomes under the commercialization programs set forth in § 12(b) & (c) of this directive.

(xviii) *Manufacturing.* Information relating to the agency's enhancement of manufacturing activities, if the agency awards more than $50,000,000 under the SBIR and STTR programs combined in a fiscal year. The report must include:

(A) a description of efforts undertaken by the agency to enhance U.S. manufacturing activities;

(B) a comprehensive description of the actions undertaken each year by the agency in carrying out the SBIR or STTR programs to support Executive Order 13329 (relating to manufacturing);

(C) an assessment of the effectiveness of the actions taken at enhancing the R&D of U.S. manufacturing technologies and processes;

(D) a description of efforts by vendors selected to provide discretionary technical assistance to help SBIR and STTR business concerns manufacture in the U.S.; and

(E) recommendations from the agency's SBIR and STTR program managers of additional actions to increase manufacturing activities in the U.S.

(xix) *Performance Areas and Metrics.* As part of agency work plans submitted pursuant to § 9(e) of the directive, SBA works with the agencies to establish the performance criteria and metrics used to measure agency performance. The Small Business Act establishes broad performance areas for the program, including commercialization, streamlining, outreach, etc. Agencies must report their progress, using the SBA-approved performance criteria, at the end of each fiscal year as part of the annual report. The metrics and performance areas will evolve over time and can be found at *www.SBIR.gov.*

(j) *Other Reporting Requirements.*

(1) SBA will set forth a list of reports that agencies are required by statute to submit, in a table format, which will be available at *www.SBIR.gov.*

(2) SBA's SBIR/STTR program database will include a list of any individual or small business concern that has received an SBIR/STTR award and that has been convicted of a fraud-related crime involving SBIR/STTR funds or found civilly liable for a fraud-related violation involving SBIR/STTR funds, of which SBA has been made aware.

(3) Program Funding Compliance. Agencies must submit to SBA's Administrator, not later than 4 months after the date of enactment of its annual Appropriations Act, a report on the agency's plan to meet the program funding requirement for the current fiscal year. SBA provides detailed guidance regarding this report on *www.sbir.gov.* The report must include the following main elements:

(A) an explanation of the calculation of total Extramural R/R&D including an itemization of each research program excluded from the calculation and a brief explanation of why it is excluded,

(B) a review of the agency's compliance with the funding requirement in the prior fiscal year to determine if the program funding process enabled the agency to meet the requirement, and

(C) a funding plan showing how the agency is budgeting its funds for the SBIR/STTR programs during the current fiscal year so as to meet or exceed the year's expected minimum obligations requirement for the program

(4) Agencies must provide notice to SBA of any case or controversy before any Federal judicial or administrative tribunal concerning the SBIR/STTR program of the Federal agency. This does not include agency level protests of awards unless and until the protest is before a Federal court or administrative body. The agency must provide notice to SBA within 15 business days of the agency's written notification of the case or controversy.

(5) Agencies must provide notice of all instances in which an agency pursued research, development, production, or any such combination of a technology developed by an SBC using an award made under the SBIR/STTR program of that agency, where the agency determined that it was not practicable to enter into a follow-on non-SBIR/STTR program funding agreement with that concern. The agency must provide notice to SBA within 15 business days of the agency's award. The report must include, at a minimum:

(i) the reasons why the follow-on funding agreement with the concern was not practicable;

(ii) the identity of the entity with which the agency contracted to perform the research, development, or production; and

(iii) a description of the type of funding agreement under which the research, development, or production was obtained.

(6) Agencies must provide information supporting the agency's achievement of the Interagency Policy Committee's policy recommendations on ways to improve program effectiveness and efficiency. This includes qualitative and quantitative data as appropriate, which would measure the agency's progress. The agency must provide this information to SBA at the end of each fiscal year.

(7) Agencies must provide an annual report to SBA, Senate Committee on Small Business and Entrepreneurship, House Committee on Small Business, and the House Committee on Science, Space, and Technology on SBIR and STTR programs and the benefits of these programs to the United States. Prior to preparing the report, the agency shall develop metrics to evaluate the effectiveness and benefit to the United States of the SBIR and STTR programs. The metrics must be science-based and statistically driven, reflect the mission of the agency, and include factors relating to the economic impact of the programs. The report must describe in detail the agency's annual evaluation of the programs using these metrics. The final report must be posted online so it can be made available to the public.

(8) NIH, DoD and the Department of Education must provide the written determination to SBA anytime it issues a Phase II award to a small business concern that did not receive a Phase I award for that R/R&D. The determination must be submitted prior to award.

(9) SBA will compile data and report to Congress on the Federal and State Technology (FAST) Partnership Program, described in § 12 of this Policy Directive. If required by the FAST grant, the grantees will report a comprehensive list of the companies that received assistance under FAST and if those companies received SBIR or STTR awards and any information regarding mentors and Mentoring Networks, as required in the Federal and State Technology (FAST) Partnership Program.

(k) *Further Clarification on Availability of SBC Information.*

(1) Unless stated otherwise, the information contained in the Company Registry Database, the Application Information Database, and the Commercialization Database is solely available to authorized government officials, with the approval of SBA. This includes Congress, GAO, agencies participating in the SBIR and the STTR programs, Office of Management and Budget, OSTP, Office of Federal Procurement Policy, and other authorized persons who are subject to a nondisclosure agreement with the Federal Government covering the use of the databases. These databases are used for the purposes of evaluating and determining eligibility for the SBIR/STTR program, in accordance with Policy Directives issued by SBA. Pursuant to 15 U.S.C. 638(k)(4), certain information provided to those databases are privileged and confidential and not subject to disclosure pursuant to 5 U.S.C. 552 (Government Organization and Employees); nor must it be considered to be publication for purposes of 35 U.S.C. 102 (a) or (b).

(2) Most of the information in the Award Information and Annual Reports Databases will be available to the public. Any information that will identify the confidential business information of a given small business concern will not be disclosed to the public. Those databases are available at *www.SBIR.gov* and offer a vast array of user-friendly capabilities that are accessible by the public at no charge. The Award Information Database allows for the online submission of SBIR/STTR awards data from all SBIR/STTR agencies. It also allows any end-user to perform keyword searches and create formatted reports of SBIR/STTR awards information, and for potential research partners to view research and development efforts that are ongoing in the SBIR and the STTR programs, increasing the investment opportunities of the SBIR/STTR SBCs in the high tech arena.

(l) *Waivers.*

(1) Agencies must request an extension for additional time between the solicitation closing date and notification of recommendation for award. SBA will respond to the request for an extension within 5 business days, as practicable. *See* § 7(c)(1) of the directive for further information.

(2) Agencies must request a waiver to exceed the award guidelines for Phase I and Phase II awards by more than 50% for a specific topic. *See* § 7(i)(4) of the directive for further information.

(3) Agencies must request a waiver to not use its SBIR funds, as part of the pilot allowing for the use of such funds for certain SBIR-related costs, to increase participation by SDBs and

WOSBs in the SBIR/STTR Program, and small businesses in states with a historically low level of SBIR/STTR awards. *See* § 9(e)(3)(ii) of the directive for further information.

(4) Agencies must request a waiver to issue a funding agreement that includes a provision for subcontracting a portion of that agreement back to the issuing agency if there is no exception to this requirement in the directive. *See* § 9(e)(4) of the directive for further information.

11. Responsibilities of SBA

(a) *Policy.*

(1) SBA establishes policy and procedures for the program by publishing and updating the SBIR/STTR Policy Directive and promulgating regulations. Policy clarification of any part or provision of the directive or regulations may be provided by SBA.

(2) It is essential that SBIR/STTR agencies do not promulgate any policy, rule, regulation, or interpretation that is inconsistent with the Act, this Policy Directive, or SBA's regulations relating to the SBIR/STTR program. SBA's monitoring activity will include review of policies, rules, regulations, interpretations, and procedures generated to facilitate intra- and interagency SBIR/STTR program implementation.

(3) Waivers providing limited exceptions to certain policies can be found at § 10 of the directive.

(b) *Outreach.* SBA conducts outreach to achieve a number of objectives including:

(1) Educating the public about the SBIR/STTR program via conferences, seminars, and presentations;

(2) Highlighting the successes achieved in the program by publishing (via press releases and *www.SBIR.gov*) success stories, as well as hosting awards programs;

(3) *Maintaining www.SBIR.gov,* which is an online public information resource that provides comprehensive information regarding the SBIR/STTR program. This information includes: a listing of solicitation information on currently available SBIR/STTR opportunities, award information on all Phase I and Phase II awards, summary annual award information for the whole program, and contact information for SBA and agency program managers.

(c) *Collection and publication of program-wide data.* SBA collects and maintains program-wide data within the SBIR.gov data system. This data includes information on all Phase I and II awards from across all SBIR/STTR agencies, as well as Fiscal Year Annual Report data. *See* § 10 of the directive for further information about reporting and data collection requirements.

(d) *Monitoring implementation of the program and annually reporting to Congress.*

SBA is responsible for providing oversight and monitoring the implementation of the SBIR/STTR program at the agency level. This monitoring includes:

(1) *SBIR/STTR Funding Allocations.* The Act establishes the source of the funds for the SBIR and STTR programs (extramural R/R&D), the percentage of such funds to be obligated through the SBIR and STTR programs, and it requires that SBA monitor these annual allocations. Agencies may include in their annual report to SBA an explanation of the specific budgeting process used to allocate funds to the SBIR/STTR programs and describe any issues observed with the compliance determination process.

(2) *SBIR/STTR Program Solicitation and Award Status.* The accomplishment of scheduled SBIR/STTR events, such as SBIR/STTR program solicitation releases and the issuance of funding agreements is critical to meeting statutory mandates and to operating an effective, useful program. SBA monitors these and other operational features of the SBIR/STTR Program and publishes information relating to notice of and application for awards under the SBIR/STTR program for each SBIR/STTR agency at SBIR.Gov. SBA does not plan to monitor administration of the awards except in instances where SBA assistance is requested and is related to a specific SBIR/STTR project or funding agreement.

(3) *Follow-on Funding Commitments.* SBA will monitor whether follow-on non-Federal funding commitments obtained by Phase II awardees for Phase III were considered in the evaluation of Phase II proposals as required by the Act.

(4) *Fraud, Waste, and Abuse (FWA).* SBA will ensure that each SBIR/STTR agency has taken steps to maintain a FWA prevention system to minimize its impact on the program.

(5) *Performance Areas, Metrics, and Goals.* SBA is responsible for defining performance areas consistent with statute (*e.g.,* reducing timelines for award, simplification) against which agencies will set goals. SBA will work with the agencies to set metrics, in order to measure an agency's accomplishments of its goals against the defined performance areas. The purpose of these metrics and goals is to assist SBA in evaluating and reporting on the progress achieved by the agencies in improving the SBIR/STTR program. For further information on Performance Areas, Metrics and Goals *see* § 10(i).

(e) *Additional efforts to improve the performance of the program.* SBA, in its continuing effort to improve the program, will make recommendations for improvement within the framework of the Program Managers' meetings. This may include recommending a "best practice" currently being utilized by an agency or business, or open discussion and feedback on a potential "best practice" for agency adoption. This may also involve program-wide initiatives.

(f) *Federal and State Technology Partnership (FAST) Program.* SBA coordinates the FAST program. SBA develops the solicitation, reviews proposals, and oversees grant awards. FAST provides awardees with funding to assist in outreach, proposal preparation, and other technical assistance to developing innovation oriented SBCs.

12. Supporting Programs and Initiatives

(a) *Federal and State Technology Partnership Program.* The purpose of the FAST Program is to strengthen the technological competitiveness of SBCs in the United States. Congress found that programs that foster economic development among small high-technology firms vary widely among the States. Thus, the purpose of the FAST Program is to improve the participation of small technology firms in the innovation and commercialization of new technology, thereby ensuring that the United States remains on the cutting-edge of research and development in the highly competitive arena of science and technology. SBA administers the FAST Program. Additional and detailed information regarding this program is available at *www.SBIR.gov.*

(b) *Commercialization Readiness Program—DoD*

(1) *General.* The Secretary of Defense and the Secretary of each military department is authorized to create and administer a "Commercialization Readiness Program" to accelerate the transition of technologies, products, and services developed under the SBIR program to Phase III, including the acquisition process. The authority to create this Commercialization Readiness Program does not eliminate or replace any other SBIR or STTR program that enhances the insertion or transition of SBIR or STTR technologies. This includes any program in effect as of December 31, 2011.

(2) *Identification of research programs for accelerated transition to acquisition process.* The Secretary of each military department must identify research

programs of the SBIR or STTR program that have the potential for rapid transitioning to Phase III and into the acquisition process and certify in writing that the successful transition of the program to Phase III and into the acquisition process is expected to meet high priority military requirements of such military department.

(3) *Limitation.* The Secretary of Defense shall identify research programs of the SBIR or STTR program that have the potential for rapid transitioning to Phase III and into the acquisition process after receiving this certification from each military department.

(4) *Funding.*

(i) Beginning with FY 2013 and ending in FY 2015 (unless otherwise extended), the Secretary of Defense and each Secretary of a military department is authorized to use its SBIR funds for administration of this program in accordance with the procedures and policies set forth in section 9(e)(3) of this directive.

(ii) In addition, the Secretary of Defense and Secretary of each military department is authorized to use not more than an amount equal to 1% of its SBIR funds available to DoD or the military departments for payment of expenses incurred to administer the SBIR/STTR Commercialization Readiness Program. Such funds—

(A) shall not be subject to the limitations on the use of funds in 9(e)(2) or 9(e)(3) of this directive; and

(B) shall not be used to make Phase III awards.

(5) *Contracts Valued at not less than $100,000,000.* For any contract awarded by DoD valued at not less than $100,000,000, the Secretary of Defense may:

(i) establish goals for the transition of Phase III technologies in subcontracting plans; and

(ii) require a prime contractor on such a contract to report the number and dollar amount of the contracts entered into by the prime contractor for Phase III projects.

(6) The Secretary of Defense shall:

(i) set a goal to increase the number of SBIR/STTR Phase II contracts that lead to technology transition into programs of record of fielded systems;

(ii) use incentives in effect as of December 31, 2011 or create new incentives to encourage agency program managers and prime contractors to meet the goal set forth in paragraph (6)(i) above; and

(iii) submit the following to SBA, as part of the annual report:

(A) the number and percentage of Phase II SBIR/STTR contracts awarded by DoD that led to technology transition into programs of record or fielded systems;

(B) information on the status of each project that received funding through the Commercialization Program and the efforts to transition these projects into programs of record or fielded systems; and

(C) a description of each incentive that has been used by DoD, the effectiveness of the incentive with respect to meeting DoD's goal to increase the number of SBIR/STTR Phase II contracts that lead to technology transition into programs of record of fielded systems, and measures taken to ensure that such incentives do not act to shift the focus of Phase II awards away from relatively high-risk innovation projects.

(c) *Commercialization Readiness Pilot Program for Civilian Agencies.*

(1) *General.* The Commercialization Readiness Pilot Program permits the head of any Federal agency participating in the SBIR program (except DoD) to allocate not more than 10% of its funds allocated to the SBIR program—

(i) for follow-on awards to small businesses for technology development, testing, evaluation, and commercialization assistance for SBIR or STTR Phase II technologies; or

(ii) for awards to small businesses to support the progress of research, research and development, and commercialization conducted under the SBIR or STTR programs to Phase III.

(2) *Application to SBA.* Before establishing this pilot program, the agency must submit a written application to SBA not later than 90 days before the first day of the fiscal year in which the pilot program is to be established. The written application must set forth a compelling reason that additional investment in SBIR or STTR technologies is necessary, including unusually high regulatory, systems integration, or other costs relating to development or manufacturing of identifiable, highly promising small business technologies or a class of such technologies expected to substantially advance the mission of the agency.

(3) *SBA's Determination.* SBA must make its determination regarding an application submitted under paragraph (2) above not later than 30 days before the first day of the fiscal year for which the application is submitted. SBA must also publish its determination in the **Federal Register** and make a copy of the determination and any related materials available to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives.

(4) *Maximum Amount of Award.* The SBIR agency may not make an award to a small business concern under this pilot program in excess of 3 times the dollar amounts generally established for Phase II awards under § 7(i)(1) of this directive.

(5) *Registration.* Any small business concern that receives an award under this pilot program shall register with SBA in the Company Registry Database.

(6) *Award Criteria or Consideration.* When making an award under this pilot program, the agency is required to consider whether the technology to be supported by the award is likely to be manufactured in the United States.

(7) *Termination of Authority.* The authority to establish a pilot program under this section expires on September 30, 2017, unless otherwise extended.

(d) *Technology Development Program.* The Act permits an agency that has established a Technology Development Program to review for funding under that program, in each fiscal year:

(1) any proposal to provide outreach and assistance to 1 or more SBCs interested in participating in the SBIR program, including any proposal to make a grant or loan to a company to pay a portion or all of the cost of developing an SBIR proposal, from an entity, organization, or individual located in—

(i) a State that is eligible to participate in that technology development program; or

(ii) an Additionally Eligible State.

(2) any meritorious proposal for an SBIR Phase I award that is not funded through the SBIR program for that fiscal year due to funding constraints, from an SBC located in a state identified in (i) or (ii) immediately above.

(e) [STTR only] *Phase 0 Proof of Concept Partnership Pilot Program.*

(1) *General.* The Director of the National Institutes of Health (NIH) may use $5,000,000 of the funds allocated for the STTR program set forth in § 2(b) of this directive for a Proof of Concept Partnership Pilot Program to accelerate the creation of small businesses and the commercialization of research innovations from qualifying institutions. A qualifying institution is a university or other Research Institution that participates in the NIH's STTR program. The Director shall award, through a competitive, merit-based process, grants to qualifying institutions in order to implement this program. These grants shall only be used to administer Proof of Concept Partnership awards.

(2) *Awards to Qualifying Institutions.*

(i) The Director may make awards to a qualifying institution for up to $1,000,000 per year for up to 3 years.

(ii) In determining which qualifying institutions will receive pilot program grants, the Director of NIH shall consider, in addition to any other criteria the Director determines necessary, the extent to which qualifying institutions—

(A) have an established and proven technology transfer or commercialization office and have a plan for engaging that office in the program's implementation;

(B) have demonstrated a commitment to local and regional economic development;

(C) are located in diverse geographies and are of diverse sizes;

(D) can assemble project management boards comprised of industry, start-up, venture capital, technical, financial, and business experts;

(E) have an intellectual property rights strategy or office; and

(F) demonstrate a plan for sustainability beyond the duration of the funding award.

(3) *Proof of Concept Partnerships.* A qualifying institution selected by NIH shall establish a Proof of Concept Partnership with NIH to award grants to individual researchers. These grants should provide researchers with the initial investment and the resources to support the proof of concept work and commercialization mentoring needed to translate promising research projects and technologies into a viable company. This work may include technical validations, market research, clarifying intellectual property rights position and strategy, and investigating commercial or business opportunities.

(4) *Award Guidelines for Small Businesses.* The administrator of a Proof of Concept Partnership program shall award grants in accordance with the following guidelines:

(i) The Proof of Concept Partnership shall use a market-focused project management oversight process, including—

(A) a rigorous, diverse review board comprised of local experts in translational and proof of concept research, including industry, start-up, venture capital, technical, financial, and business experts and university technology transfer officials;

(B) technology validation milestones focused on market feasibility;

(C) simple reporting effective at redirecting projects; and

(D) the willingness to reallocate funding from failing projects to those with more potential.

(ii) The Proof of Concept Partnership shall not award more than $100,000 towards an individual proposal.

(5) *Educational Resources and Guidance.* The administrator of a Proof of Concept Partnership program shall make educational resources and guidance available to researchers attempting to commercialize their innovations.

(6) *Limitations.*

(i) The funds for the pilot program shall not be used for basic research or to fund the acquisition of research equipment or supplies unrelated to commercialization activities.

(ii) The funds for the pilot program can be used to evaluate the commercial potential of existing discoveries, including proof of concept research or prototype development; and activities that contribute to determining a project's commercialization path, to include technical validations, market research, clarifying intellectual property rights, and investigating commercial and business opportunities.

(7) *Termination of Authority.* The pilot program under this subsection shall terminate on September 30, 2017, unless otherwise extended.

Appendix I: Instructions for SBIR and STTR Program Solicitation Preparation

a. *General.* Subsections 9(j) and 9(p) of the Small Business Act (15 U.S.C. 638(j)) requires simplified, standardized and timely SBIR/STTR solicitations and for SBIR/STTR agencies to utilize a "uniform process" minimizing the regulatory burden of participation. Therefore, the following instructions purposely depart from normal Government solicitation formats and requirements. SBIR/STTR solicitations must be prepared and issued as program solicitations in accordance with the following instructions.

b. *Limitation in Size of Solicitation.* In the interest of meeting the requirement for simplified and standardized solicitations, while also recognizing that the Internet has become the main vehicle for distribution, each agency should structure its entire SBIR/STTR solicitation to produce the least number of pages (electronic and printed), consistent with the procurement/assistance standing operating procedures and statutory requirements of the participating Federal agencies.

c. *Format.* SBIR/STTR program solicitations must be prepared in a simple, standardized, easy-to-read, and easy-to-understand format. It must include a cover sheet, a table of contents, and the following sections in the order listed.

1. Program Description
2. Certifications
3. Proposal Preparation Instructions and Requirements
4. Method of Selection and Evaluation Criteria
5. Considerations
6. Submission of Proposals
7. Scientific and Technical Information Sources
8. Submission Forms
9. Research Topics

d. *Cover Sheet.* The cover sheet of an SBIR/STTR program solicitation must clearly identify the solicitation as an SBIR/STTR solicitation, identify the agency releasing the solicitation, specify date(s) on which contract proposals or grant applications (proposals) are due under the solicitation, and state the solicitation number or year.

e. Instructions for Preparation of SBIR or STTR Program Solicitation—Sections 1–9

§ 1. *Program Description.*

(a) Summarize in narrative form the request for proposals and the objectives of the SBIR or STTR program.

(b) Describe in narrative form the agency's SBIR or STTR program including a description of the three phases. Note in your description whether the solicitation is for Phase I or Phase II proposals. Also note in each solicitation for Phase I, that all awardees may apply for a Phase II award and provide guidance on the procedure for doing so.

(c) Describe program eligibility.

(d) List the name, address and telephone number of agency contacts for general information on the SBIR or STTR program solicitation.

(e) Whenever terms are used that are unique to the SBIR or STTR program, a specific SBIR or STTR solicitation or a portion of a solicitation, define them or refer potential offerors/applicants to a source for the definition. At a minimum, the definitions of "funding agreement," "R/R&D," "SBC," "SBIR/STTR data," and "SBIR/STTR data rights" must be included.

(f) Include information explaining how an individual can report fraud, waste and abuse (*e.g.* include the fraud hotline for the agency's Office of Inspector General);

§ 2. *Certifications.*

(a) This section must include certifying forms required by legislation, regulation or standing operating procedures, to be submitted by the applicant to the contracting or granting agency. This would include certifying forms such as those for the protection of human and animal subjects.

(b) This section must include any certifications required concerning size, ownership and other SBIR or STTR program requirements.

(i) The agency may request the SBIR/STTR applicant to submit a certification at the time of submission of the application or offer. The certification may require the applicant to state that it intends to meet the size, ownership and other requirements of the SBIR or STTR program at the time of award of the funding agreement, if selected for award.

(ii) The agency must request the applicant to submit a certification at the time of award and at any other time set forth in SBA's regulations at 13 CFR 121.701–121.705. The certification will require the applicant to state that it meets the size, ownership and other requirements of the SBIR or STTR program at the time of award of the funding agreement.

(iii) The agency must request the Awardee to submit certifications during funding agreement life cycle. A Phase I funding agreement must state that the awardee shall submit a new certification as to whether it qualifies as a SBC and that it is in compliance with specific SBIR or STTR program requirements at the time of final payment or disbursement. A Phase II funding agreement must state that the awardee shall submit a new certification as to whether it qualifies as a SBC and that it is in compliance with specific SBIR or STTR program requirements prior to receiving more than 50% of the total award amount and prior to final payment or disbursement.

(iv) Agencies may require additional certifications at other points in time during the life cycle of the funding agreement, such as at the time of each payment or disbursement.

(c) The agency must use the following certification at the time of award and upon notification by SBA, must check *www.SBIR.gov* for updated certifications prepared by SBA:

SBIR/STTR Funding Agreement Certification

All small businesses that are selected for award of an SBIR/STTR funding agreement must complete this certification at the time of award and any other time set forth in the funding agreement that is prior to performance of work under this award. This includes checking all of the boxes and having an authorized officer of the awardee sign and date the certification each time it is requested.

Please read carefully the following certification statements. The Federal government relies on the information to determine whether the business is eligible for a Small Business Innovation Research (SBIR) program or Small Business Technology Transfer (STTR) program award. A similar certification will be used to ensure continued compliance with specific program requirements during the life of the funding agreement. The definitions for the terms used in this certification are set forth in the Small Business Act, SBA regulations (13 CFR part 121), the SBIR/STTR Policy Directive and also any statutory and regulatory provisions referenced in those authorities.

If the funding agreement officer believes that the business may not meet certain eligibility requirements at the time of award, they are required to file a size protest with the U.S. Small Business Administration (SBA), who will determine eligibility. At that time, SBA will request further clarification and supporting documentation in order to assist in the verification of any of the information provided as part of a protest. If the funding agreement officer believes, after award, that the business is not meeting certain funding agreement requirements, the agency may request further clarification and supporting documentation in order to assist in the verification of any of the information provided.

Even if correct information has been included in other materials submitted to the Federal government, any action taken with respect to this certification does not affect the Government's right to pursue criminal, civil or administrative remedies for incorrect or incomplete information given in the certification. Each person signing this certification may be prosecuted if they have provided false information.

The undersigned has reviewed, verified and certifies that (*all boxes must be checked unless otherwise directed*):

(1) ☐ The awardee business concern meets the ownership and control requirements set forth in 13 CFR 121.702.

(2) If a corporation—all corporate documents, namely: articles of incorporation and any amendments, articles of conversion, by-laws and amendments, shareholder meeting minutes showing director elections, shareholder meeting minutes showing officer elections, organizational meeting minutes, all issued stock certificates, stock ledger, buy-sell agreements, stock transfer agreements, voting agreements, and documents relating to stock options, including the right to convert non-voting stock or debentures into voting stock, must evidence that the corporation meets the ownership and control requirements set forth in 13 CFR 121.702. (Check one box).

☐ Yes ☐ N/A Explain why N/A:

(3) If a partnership, the partnership agreement evidences that it meets the ownership and control requirements set forth in 13 CFR 121.702. (Check one box).

☐ Yes ☐ N/A Explain why N/A:

(4) If a limited liability company—the articles of organization and any amendments, and operating agreement and amendments, evidence that it meets the ownership and control requirements set forth in 13 CFR 121.702. (Check one box).

☐ Yes ☐ N/A Explain why N/A:

(5) The birth certificates, naturalization papers, or passports show that any individuals it relies upon to meet the eligibility requirements are U.S. citizens or permanent resident aliens in the United States. (Check one box).

☐ Yes ☐ N/A Explain why N/A:

(6) ☐ It has no more than 500 employees, including the employees of its affiliates.

(7) ☐ SBA has not issued a size determination currently in effect finding that this business concern exceeds the 500 employee size standard.

(8) During the performance of the award, the principal investigator will spend more than one half of his/her time as an employee of the awardee (or research institution—STTR only) or has requested and received a written deviation from this requirement from the funding agreement officer. (Check one box).

☐ Yes ☐ Deviation approved in writing by funding agreement officer: _%

(9) All, essentially equivalent work, or a portion of the work proposed under this project (check applicable line):

☐ **Has not** been submitted for funding to another Federal agency or State program.

☐ **Has** been submitted for funding to another Federal agency or State program **but has not** been funded under any other grant, contract, subcontract or other transaction.

☐ A portion has been funded by another grant, contract, or subcontract as described in detail in the proposal and approved in writing by the funding agreement officer.

(10) During the performance of award, the awardee will perform the applicable percentage of work unless a deviation from this requirement is approved in writing by the funding agreement officer (check applicable line and fill in if needed):

☐ SBIR Phase I: at least two-thirds (66 2/3%) of the research.

☐ SBIR Phase II: at least half (50%) of the research.

☐ STTR Phase I or Phase II: at least forty percent (40%) of the research.

☐ Deviation approved in writing by the funding agreement officer: %

(11) During performance of award, the research/research and development will be performed in the United States unless a deviation is approved in writing by the funding agreement officer (check one box).

☐ Yes ☐ Waiver has been granted

(12) ☐ During performance of award, the research/research and development will be performed at the awardee's facilities with its employees, except as otherwise indicated in the SBIR/STTR application and approved in the funding agreement.

(13) The SBIR awardee has registered itself on SBA's database as majority-owned by venture capital operating companies, hedge funds or private equity firms (check one box).

☐ Yes ☐ No ☐ N/A Explain why N/A: ____________

(14) It is a Covered Small Business Concern (a small business concern that: (a) was not majority-owned by multiple venture capital operating companies (VCOCs), hedge funds, or private equity firms on the date on which it submitted an application in response to an SBIR solicitation; and (b) on the date of the SBIR award, which is made more than 9 months after the closing date of the solicitation, is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms). (Check one box).

☐ Yes ☐ No

(15) ☐ I will notify the Federal agency immediately if all or a portion of the work authorized and funded under this award is subsequently funded by another Federal agency.

(16) [*For STTR only*] The small business concern, and not a partnering Research Institution, is exercising management direction and control of the performance of the STTR funding agreement.

Yes ☐ No ☐

(17) ☐ I understand that the information submitted may be given to Federal, State and local agencies for determining violations of law and other purposes.

(18) ☐ I am an *officer* of the business concern authorized to represent it and sign this certification on its behalf. By signing this certification, I am representing on my own behalf, and on behalf of the business concern that the information provided in this certification, the application, and all other information submitted in connection with this application, is true and correct as of the date of submission. I acknowledge that any intentional or negligent misrepresentation of the information contained in this certification may result in criminal, civil or administrative sanctions, including but not limited to: (1) fines, restitution and/or imprisonment under 18 U.S.C. 1001; (2) treble damages and civil penalties under the False Claims Act (31 U.S.C. 3729 *et seq.*); (3) double damages and civil penalties under the Program Fraud Civil Remedies Act (31 U.S.C. 3801 *et seq.*); (4) civil recovery of award funds, (5) suspension and/or debarment from all Federal procurement and nonprocurement transactions (FAR Subpart 9.4 or 2 CFR part 180); and (6) other administrative penalties including termination of SBIR/STTR awards.

Signature	*Date* __/__/__
Print Name (First, Middle, Last)	
Title	
Business Name	

(d) The agency must use the following certification during the lifecycle of the funding agreement in accordance with subsection 8(h) of the directive and paragraph 2(b)(iv) of this Appendix and upon notification by SBA, must check *www.SBIR.gov* for updated certifications prepared by SBA:

SBIR/STTR Funding Agreement Certification—Life Cycle Certification

All SBIR/STTR Phase I and Phase II awardees must complete this certification at all times set forth in the funding agreement (*see* § 8(h) of the SBIR/STTR Policy Directive). This includes checking all of the boxes (unless otherwise directed) and having an authorized officer of the awardee sign and date the certification each time it is requested.

Please read carefully the following certification statements. The Federal government relies on the information to ensure compliance with specific program requirements during the life of the funding agreement. The definitions for the terms used in this certification are set forth in the Small Business Act, the SBIR/STTR Policy Directive, and also any statutory and regulatory provisions referenced in those authorities.

If the funding agreement officer believes that the business is not meeting certain funding agreement requirements, the agency may request further clarification and supporting documentation in order to assist in the verification of any of the information provided.

Even if correct information has been included in other materials submitted to the Federal government, any action taken with respect to this certification does not affect the Government's right to pursue criminal, civil or administrative remedies for incorrect or incomplete information given in the certification. Each person signing this certification may be prosecuted if they have provided false information.

The undersigned has reviewed, verified and certifies that (all boxes must be checked except where otherwise directed):

(1) The principal investigator spent more than one half of his/her time as an employee of the awardee (or research institution—STTR only) or the awardee has requested and received a written deviation from this requirement from the funding agreement officer.

☐ Yes ☐ No ☐ Deviation approved in writing by funding agreement officer: __%

(2) All, essentially equivalent work, or a portion of the work performed under this project (check the applicable line):

☐ **Has not** been submitted for funding to another Federal agency or State program.

☐ **Has** been submitted for funding to another Federal agency or State program **but has not** been funded under any other grant, contract, subcontract or other transaction.

☐ A portion has been funded by another grant, contract, or subcontract as described in detail in the proposal and approved in writing by the funding agreement officer.

(3) Upon completion of the award, the awardee will have performed the applicable percentage of work, unless a deviation from this requirement is approved in writing by the funding agreement officer (check the applicable line and fill in if needed):

☐ SBIR Phase I: at least two-thirds (66 2/3%) of the research.

☐ SBIR Phase II: at least half (50%) of the research.

☐ STTR Phase I or Phase II: at least forty percent (40%) of the research.

☐ Deviation approved in writing by the funding agreement officer: %

(4) The work is completed and the small business awardee has performed the applicable percentage of work, unless a deviation from this requirement is approved in writing by the funding agreement officer (check the applicable line and fill in if needed):

☐ SBIR Phase I: at least two-thirds (66 2/3%) of the research.

☐ SBIR Phase II: at least half (50%) of the research.

☐ STTR Phase I or Phase II: at least forty percent (40%) of the research.

☐ Deviation approved in writing by the funding agreement officer: %

☐ N/A because work is not completed

(5) [*For STTR only*] The small business concern, and not a partnering Research Institution, is exercising management direction and control of the performance of the STTR funding agreement.

Yes ☐ No ☐

(6) The research/research and development is performed in the United States unless a deviation is approved in writing by the funding agreement officer.

☐ Yes ☐ No ☐ Waiver has been granted

(7) The research/research and development is performed at the awardee's facilities with its employees, except as otherwise indicated in the SBIR/STTR application and approved in the funding agreement.

☐ Yes ☐ No

(8) ☐ I will notify the Federal agency immediately if all or a portion of the work authorized and funded under this award is subsequently funded by another Federal agency.

(9) ☐ I understand that the information submitted may be given to Federal, State and local agencies for determining violations of law and other purposes.

(10) ☐ I am an officer of the awardee business concern authorized to represent it and sign this certification on its behalf. By signing this certification, I am representing on my own behalf, and on behalf of the business concern, that the information provided in this certification, the application, and all other information submitted in connection with the award, is true and correct as of the date of submission. I acknowledge that any intentional or negligent misrepresentation of the information contained in this certification may result in criminal, civil or administrative sanctions, including but not limited to: (1) fines, restitution and/or imprisonment under 18 U.S.C. 1001; (2) treble damages and civil penalties under the False Claims Act (31 U.S.C. 3729 *et seq.*); (3) double damages and civil penalties under the Program Fraud Civil Remedies Act (31 U.S.C. 3801 *et seq.*); (4) civil recovery of award funds, (5) suspension and/or debarment from all Federal procurement and nonprocurement transactions (FAR Subpart 9.4 or 2 CFR part 180); and (6) other administrative penalties including termination of SBIR/STTR awards.

Signature	*Date __/__/__*
Print Name (First, Middle, Last)	
Title	
Business Name	

(e) [SBIR only] The agency must require any SBC that is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms to submit the following certification with its SBIR application:

Certification for SBIR Applicants that are Majority-Owned by Multiple Venture Capital Operating Companies, Hedge Fund or Private Equity Firms

Any small business that is majority-owned by multiple venture operating companies (VCOCs), hedge funds or private equity firms and is submitting an application for an SBIR funding agreement must complete this certification prior to submitting an application. This includes checking all of the boxes and having an authorized officer of the applicant sign and date the certification each time it is requested.

Please read carefully the following certification statements. The Federal government relies on the information to determine whether the business is eligible for a Small Business Innovation Research (SBIR) program award and meets the specific program requirements during the life of the funding agreement. The definitions for the terms used in this certification are set forth in the Small Business Act, SBA regulations (13 CFR part 121), the SBIR Policy Directive and also any statutory and regulatory provisions referenced in those authorities.

If the funding agreement officer believes that the business may not meet certain eligibility requirements at the time of award, he/she is required to file a size protest with the U.S. Small Business Administration (SBA), who will determine eligibility. At that time, SBA will request further clarification and supporting documentation in order to assist in the verification of any of the information provided as part of a protest. If the funding agreement officer believes, after award, that the business is not meeting certain funding agreement requirements, the agency may request further clarification and supporting documentation in order to assist in the verification of any of the information provided.

Even if correct information has been included in other materials submitted to the Federal government, any action taken with respect to this certification does not affect the Government's right to pursue criminal, civil or administrative remedies for incorrect or incomplete information given in the certification. Each person signing this certification may be prosecuted if they have provided false information.

The undersigned has reviewed, verified and certifies that (*all boxes must be checked*):

(1) ☐ The applicant is NOT more than 50% owned by a single VCOC, hedge fund or private equity firm.

(2) ☐ The applicant is more than 50% owned by multiple domestic business concerns that are VCOCs, hedge funds, or private equity firms.

(3) ☐ I have registered with SBA at www.SBIR.gov as a business that is majority-owned by multiple VCOCs, hedge funds or private equity firms.

(4) ☐ I understand that the information submitted may be given to Federal, State and local agencies for determining violations of law and other purposes.

(5) ☐ All the statements and information provided in this form and any documents submitted are true, accurate and complete. If assistance was obtained in completing this form and the supporting documentation, I have personally reviewed the information and it is true and accurate. I understand that, in general, these statements are made for the purpose of determining eligibility for an SBIR funding agreement and continuing eligibility.

(6) ☐ I understand that the certifications in this document are continuing in nature. Each SBIR funding agreement for which the small business submits an offer or application or receives an award constitutes a restatement and reaffirmation of these certifications.

(7) ☐ I understand that I may not misrepresent status as small business to: 1) obtain a contract under the Small Business Act; or 2) obtain any benefit under a provision of Federal law that references the SBIR program.

(8) ☐ I am an *officer* of the business concern authorized to represent it and sign this certification on its behalf. By signing this certification, I am representing on my own behalf, and on behalf of the SBIR applicant or awardee, that the information provided in this certification, the application, and all other information submitted in connection with this application, is true and correct as of the date of submission. I acknowledge that any intentional or negligent misrepresentation of the information contained in this certification may result in criminal, civil or administrative sanctions, including

but not limited to: (1) fines, restitution and/or imprisonment under 18 U.S.C. 1001; (2) treble damages and civil penalties under the False Claims Act (31 U.S.C. 3729 *et seq.*); (3) double damages and civil penalties under the Program Fraud Civil Remedies Act (31 U.S.C. 3801 *et seq.*); (4) civil recovery of award funds, (5) suspension and/or debarment from all Federal procurement and nonprocurement transactions (FAR Subpart 9.4 or 2 CFR part 180); and (6) other administrative penalties including termination of SBIR/STTR awards.

Signature	*Date* __/__/__
Print Name (First, Middle, Last)	
Title	
Business Name	

§ 3. *SBIR/STTR Proposal Preparation Instructions and Requirements.* The purpose of this section is to inform the applicant on what to include in the proposal and to set forth limits on what may be included. It should also provide guidance to assist applicants, particularly those that may not have previous Government experience, in improving the quality and acceptance of proposals.

(a) *Limitations on Length of Proposal. Include at least the following information:*

(1) SBIR/STTR Phase I proposals must not exceed a total of 25 pages, including cover page, budget, and all enclosures or attachments, unless stated otherwise in the agency solicitation. Pages should be of standard size (8 1/2″ × 11″; 21.6 cm × 27.9 cm) and should conform to the standard formatting instructions. Margins should be 2.5 cm and type at least 10 point font.

(2) A notice that no additional attachments, appendices, or references beyond the 25-page limitation shall be considered in proposal evaluation (unless specifically solicited by an agency) and that proposals in excess of the page limitation shall not be considered for review or award.

(b) *Proposal Cover Sheet.* Every applicant is required to provide a copy of its registration information printed from the Company Registry unless the information can be transmitted automatically to SBIR/STTR agencies. Every applicant must also include at least the following information on the first page of proposals. Items 8 and 9 are for statistical purposes only.

(1) Agency and solicitation number or year.

(2) Topic Number or Letter.

(3) Subtopic Number or Letter.

(4) Topic Area.

(5) Project Title.

(6) Name and Complete Address of Firm.

(7) Disclosure permission (by statement or checkbox), such as follows, must be included at the discretion of the funding agency:

"Will you permit the Government to disclose your name, address, and telephone number of the corporate official of your concern, if your proposal does not result in an award, to appropriate local and State-level economic development organizations that may be interested in contacting you for further information?

Yes___ No___"

(8) Signature of a company official of the proposing SBC and that individual's typed name, title, address, telephone number, and date of signature.

(9) Signature of Principal Investigator or Project Manager within the proposing SBC and that individual's typed name, title, address, telephone number, and date of signature.

(10) Legend for proprietary information as described in the "Considerations" section of this program solicitation if appropriate. This may also be noted by asterisks in the margins on proposal pages.

(c) *Data Collection Requirement*

(1) Each Phase I and Phase II applicant is required to provide information for SBA's database (*www.SBIR.gov*). The following are examples of the data to be entered by applicants into the database:

(i) Any business concern or subsidiary established for the commercial application of a product or service for which an SBIR or STTR award is made.

(ii) Revenue from the sale of new products or services resulting from the research conducted under each Phase II award;

(iii) Additional investment from any source, other than Phase I or Phase II awards, to further the research and development conducted under each Phase II award.

(iv) Update the information in the database for any prior Phase II award received by the SBC. The SBC may apportion sales or additional investment information relating to more than one Phase II award among those awards, if it notes the apportionment for each award.

(2) Each Phase II awardee is required to update the appropriate information on the award in the database upon completion of the last deliverable under the funding agreement and is requested to voluntarily update the information in the database annually thereafter for a minimum period of 5 years.

(d) *Abstract or Summary.* Applicants will be required to include a one-page project summary of the proposed R/R&D including at least the following:

(1) Name and address of SBC.

(2) Name and title of principal investigator or project manager.

(3) Agency name, solicitation number, solicitation topic, and subtopic.

(4) Title of project.

(5) Technical abstract limited to two hundred words.

(6) Summary of the anticipated results and implications of the approach (both Phases I and II) and the potential commercial applications of the research.

(e) *Technical Content.* SBIR or STTR program solicitations must require, as a minimum, the following to be included in proposals submitted thereunder:

(1) *Identification and Significance of the Problem or Opportunity.* A clear statement of the specific technical problem or opportunity addressed.

(2) *Phase I Technical Objectives.* State the specific objectives of the Phase I research and development effort, including the technical questions it will try to answer to determine the feasibility of the proposed approach.

(3) *Phase I Work Plan.* Include a detailed description of the Phase I R/R&D plan. The plan should indicate what will be done, where it will be done, and how the R/R&D will be carried out. Phase I R/R&D should address the objectives and the questions cited in (e)(2) immediately above. The methods planned to achieve each objective or task should be discussed in detail.

(4) *Related R/R&D.* Describe significant R/R&D that is directly related to the proposal including any conducted by the project manager/principal investigator or by the proposing SBC. Describe how it relates to the proposed effort, and any planned coordination with outside sources. The applicant must persuade reviewers of his or her awareness of key, recent R/R&D conducted by others in the specific topic area.

(5) *Key Individuals and Bibliography of Directly Related Work.* Identify key individuals involved in Phase I including their directly-related education, experience, and bibliographic information. Where vitae are extensive, summaries that focus on the most relevant experience or publications are desired and may be necessary to meet proposal size limitation.

(6) *Relationship with Future R/R&D.*

(i) State the anticipated results of the proposed approach if the project is successful (Phase I and II).

(ii) Discuss the significance of the Phase I effort in providing a foundation for the Phase II R/R&D effort.

(7) *Facilities.* A detailed description, availability and location of instrumentation and physical facilities proposed for Phase I should be provided.

(8) *Consultants.* Involvement of consultants in the planning and research stages of the project is permitted. If such involvement is intended, it should be described in detail.

(9) *Potential Post Applications.* Briefly describe:

(i) Whether and by what means the proposed project appears to have potential commercial application.

(ii) Whether and by what means the proposed project appears to have potential use by the Federal Government.

(10) *Similar Proposals or Awards.* WARNING—While it is permissible with proposal notification to submit identical proposals or proposals containing a significant amount of essentially equivalent work for consideration under numerous Federal or State program solicitations, it is unlawful to enter into funding agreements requiring essentially equivalent work. If there is any question concerning this, it must be disclosed to the soliciting agency or agencies before award. If an applicant elects to submit identical proposals or proposals containing a significant amount of essentially equivalent work under other Federal or State program solicitations, a statement must be included in each such proposal indicating:

(i) The name and address of the agencies to which proposals were submitted or from which awards were received.

(ii) Date of proposal submission or date of award.

(iii) Title, number, and date of solicitations under which proposals were submitted or awards received.

(iv) The specific applicable research topics for each proposal submitted or award received.

(v) Titles of research projects.

(vi) Name and title of principal investigator or project manager for each proposal submitted or award received.

(11) *Prior SBIR Phase II Awards.* If the SBC has received more than 15 Phase II awards in the prior 5 fiscal years, the SBC must submit in its Phase I proposal: name of the awarding agency; date of award; funding agreement number; amount of award; topic or subtopic title; follow-on agreement amount; source and date of commitment; and current commercialization status for each Phase II award. (This required proposal information will not be counted toward the proposal pages limitation.)

(f) *Cost Breakdown/Proposed Budget.* The solicitation will require the submission of simplified cost or budget data.

§ 4. *Method of Selection and Evaluation Criteria.*

(a) *Standard Statement.* Essentially, the following statement must be included in all SBIR or STTR program solicitations:

"All Phase I and II proposals will be evaluated and judged on a competitive basis. Proposals will be initially screened to determine responsiveness. Proposals passing this initial screening will be technically evaluated by engineers or scientists to determine the most promising technical and scientific approaches. Each proposal will be judged on its own merit. The Agency is under no obligation to fund any proposal or any specific number of proposals in a given topic. It also may elect to fund several or none of the proposed approaches to the same topic or subtopic."

(b) *Evaluation Criteria.*

(1) The SBIR/STTR agency must develop a standardized method in its evaluation process that will consider, at a minimum, the following factors:

(i) The technical approach and the anticipated agency and commercial benefits that may be derived from the research.

(ii) The adequacy of the proposed effort and its relationship to the fulfillment of requirements of the research topic or subtopics.

(iii) The soundness and technical merit of the proposed approach and its incremental progress toward topic or subtopic solution.

(iv) Qualifications of the proposed principal/key investigators, supporting staff, and consultants.

(v) Evaluations of proposals require, among other things, consideration of a proposal's commercial potential as evidenced by:

(A) the SBC's record of commercializing SBIR or other research,

(B) the existence of second phase funding commitments from private sector or non-SBIR funding sources,

(C) the existence of third phase follow-on commitments for the subject of the research, and,

(D) the presence of other indicators of the commercial potential of the idea.

(2) The factors in (b)(1) above and other appropriate evaluation criteria, if any, must be specified in the "Method of Selection" section of SBIR program solicitations.

(c) *Peer Review.* The solicitation must indicate if the SBIR/STTR agency contemplates that as a part of the SBIR/STTR proposal evaluation, it will use external peer review.

(d) *Release of Proposal Review Information.* After final award decisions have been announced, the technical evaluations of the applicant's proposal may be provided to the applicant. The identity of the reviewer must not be disclosed.

§ 5. *Considerations.* This section must include, as a minimum, the following information:

(a) *Awards.* Indicate the estimated number and type of awards anticipated under the particular SBIR/STTR program solicitation in question, including:

(1) Approximate number of Phase I awards expected to be made.

(2) Type of funding agreement, that is, contract, grant, or cooperative agreement.

(3) Whether fee or profit will be allowed.

(4) Cost basis of funding agreement, for example, fixed-price, cost reimbursement, or cost-plus-fixed fee.

(5) Information on the approximate average dollar value of awards for Phase I and Phase II.

(b) *Reports.* Describe the frequency and nature of reports that will be required under Phase I funding agreements. Interim reports should be brief letter reports.

(c) *Payment Schedule.* Specify the method and frequency of progress and final payment under Phase I and II agreements.

(d) *Innovations, SBIR/STTR Data Rights, Inventions and Patents.*

(1) *Proprietary Information in Proposals.* The following statement must be included in all SBIR/STTR solicitations:

"Information contained in unsuccessful proposals will remain the property of the applicant. The Government may, however, retain copies of all proposals. Public release of information in any proposal submitted will be subject to existing statutory and regulatory requirements. If proprietary information is provided by an applicant in a proposal, which constitutes a trade secret, proprietary commercial or financial information, confidential personal information or data affecting the national security, it will be treated in confidence, to the extent permitted by law. This information must be clearly marked by the applicant with the term "confidential proprietary information" and the following legend must appear on the title page of the proposal:

'These data shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed in whole or in part for any purpose other than evaluation of this proposal. It is agreed that as a condition of award of this funding agreement, the Government shall have SBIR/STTR Data Rights in properly marked data that is contained in the proposal dated_____, upon which this contract is based. However, data contained on pages___, are not subject to the Government's SBIR/STTR Data Rights.' "

(2) *Alternative To Minimize Proprietary Information.* Agencies may elect to instruct applicants to limit proprietary information to only that absolutely essential to their proposal.

(3) *SBIR/STTR Data Rights Clause.* Agencies must include a clause in their SBIR and STTR Program solicitations and resulting funding agreements that reflects the following necessary elements:

SBIR/STTR Data Rights Clause

(a) *Definitions.*

(1) *Computer Software.* Computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated, or recompiled. Computer Software does not include Computer Databases or Computer Software Documentation.

(2) *Data.* All recorded information, regardless of the form or method of recording or the media on which it may be recorded. The term does not include information incidental to contract or grant administration, such as financial, administrative, cost or pricing or management information.

(3) *SBIR/STTR Data.* All appropriately marked Data developed or generated in the performance of an SBIR or STTR award, including Technical Data and Computer Software developed or generated in the performance of an SBIR or STTR award. The term does not include information incidental to contract or grant administration, such as financial, administrative, cost or pricing or management information.

(4) *SBIR/STTR Data Rights.*

(A) The Government's license rights in SBIR/STTR Data during the SBIR/STTR Protection Period are as follows: SBIR/STTR Technical Data Rights in SBIR/STTR Data that are Technical Data or any other type of Data other than Computer Software that is properly marked, and SBIR/STTR Computer Software Rights in SBIR/STTR Data that is Computer Software. Upon expiration of the protection period for SBIR/STTR Data, the Government's obligation to protect that data expires and the Government's rights in that data convert to Unlimited Rights. The Government receives Unlimited Rights in all unmarked data.

(B) An Awardee retains title and ownership of all SBIR/STTR Data it develops or generates in the performance of an SBIR or STTR Phase I, Phase II, or Phase III award (including a Phase III award that is a subcontract or subgrant), and retains all rights in SBIR/STTR Data not granted to the Government. These of the Awardee rights do not expire.

(5) *SBIR/STTR Technical Data Rights.* The Government's rights during the SBIR/STTR Protection Period in SBIR/STTR Data that are Technical Data or any other type of Data other than Computer Software.

(A) The Government may, use, modify, reproduce, perform, display, release, or disclose SBIR/STTR Data that are Technical Data within the Government; however, the Government shall not use, release, or disclose the data for procurement, manufacturing, or commercial purposes; or release or disclose the SBIR/STTR Data outside the Government except as permitted by paragraph (2) below or by written permission of the awardee.

(B) SBIR/STTR Data that are Technical Data may be released outside the Government without any additional written permission of the awardee only if the non-Governmental entity or foreign government has entered into a non-disclosure agreement with the Government that complies with the terms for such agreements outlined in section 8 of this Policy Directive and the release is:

(i) Necessary to support certain narrowly-tailored essential Government activities for which law or regulation permits access of a non-Government entity to a contractors' data developed exclusively at private expense, non-SBIR/STTR Data, such as for emergency repair or overhaul;

(ii) To a Government support services contractor in the performance of a Government support services contract and the release is not for commercial purposes or manufacture;

(iii) To a foreign government for purposes of information and evaluation if required to serve the interests of the U.S. Government; or

(iv) To non-Government entities or individuals for purposes of evaluation.

(6) *SBIR/STTR Computer Software Rights.* The Government's rights during the SBIR/STTR Protection Period in specific types of SBIR/STTR Data that are Computer Software.

(A) The Government may use, modify, reproduce, release, perform, display, or disclose SBIR/STTR Data that are Computer Software within the Government. The Government may exercise SBIR/STTR Computer Software Rights within the Governmen for:

(1) Use in Government computers;

(2) Modification, adaptation, or combination with other computer software, provided that the Data incorporated into any derivative software are subject to the rights in paragraph (ee) and that the derivative software is marked as containing SBIR/STTR Data;

(3) Archive or backup; or

(4) Distribution of a computer program to another Government agency, without further permission of the awardee, if the awardee is notified of the distribution and the identity of the recipient prior to the distribution, and a copy of the SBIR/STTR Computer Software Rights included in the funding agreement is provided to the recipient.

(B) The Government shall not release, disclose, or permit access to SBIR/STTR Data that is Computer Software for commercial, manufacturing, or procurement purposes without the written permission of the awardee. The Government shall not release, disclose, or permit access to SBIR/STTR Data outside the Government without the written permission of the awardee unless:

(i) The non-Governmental entity has entered into a non-disclosure agreement with the Government that complies with the terms for such agreements outlined in section 8 of this Policy Directive; and

(ii) The release or disclosure is—

(I) To a Government support service contractor for purposes of supporting Government internal use or activities, including evaluation, diagnosis and correction of deficiencies, and adaptation, combination, or integration with other Computer Software provided that SBIR/STTR Data incorporated into any derivative software are subject to the rights in paragraph (ff); or

(II) Necessary to support certain narrowly-tailored essential Government activities for which law or regulation permits access of a non-Government entity to a contractors' data developed exclusively at private expense, non-SBIR/STTR Data, such as for emergency repair and overhaul.

(7) *SBIR/STTR Protection Period.* The period of time during which the Government is obligated to protect SBIR/STTR Data against unauthorized use and disclosure in accordance with SBIR/STTR Data Rights. The SBIR/STTR

Protection Period begins at award of an SBIR/STTR funding agreement and ends not less than twelve years after acceptance of the last deliverable under that agreement (See § 8(b)(4) of the SBIR/STTR Policy Directive).

(8) *Technical Data.* Recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including Computer Software Documentation and Computer Databases). The term does not include Computer Software or financial, administrative, cost or pricing, or management information, or other data incidental to contract or grant administration. The term includes recorded Data of a scientific or technical nature that is included in Computer Databases.

(9) *Unlimited Rights.* The Government's rights to access, use, modify, prepare derivative works, reproduce, release, perform, display, disclose, or distribute Data in whole or in part, in any manner and for any purpose whatsoever, and to have or authorize others to do so.

(b) *Allocation of SBIR/STTR Data Rights.*

(1) An SBC has ownership of all SBIR/STTR Data it develops or generates in the performance of an SBIR/STTR award. The SBC retains all rights in SBIR/STTR Data that are not granted to the Government in accordance with this Policy Directive. These rights of the SBC do not expire.

(2) During the SBIR/STTR Protection Period, the Government receives SBIR/STTR Technical Data Rights in SBIR/STTR Data that is Technical Data or any other type of Data other than Computer Software; and SBIR/STTR Computer Software Rights in SBIR/STTR Data that is Computer Software.

(3) After the protection period, the Government receives Unlimited Rights in all SBIR/STTR Data that was protected during the protection period.

(4) The Government receives Unlimited Rights in all unmarked data.

(c) *Identification and Delivery of SBIR/STTR Data.* Any SBIR/STTR Data delivered by the awardee, and in which the awardee intends to limit the Government's rights to use and disclosure to SBIR/STTR Technical Data Rights and SBIR/STTR Computer Software Rights, must be delivered with restrictive markings. The Government assumes no liability for the access, use, modification, reproduction, release, performance, display, disclosure, or distribution of SBIR/STTR Data delivered without markings. The Awardee or its subcontractors or suppliers shall conspicuously and legibly mark all such SBIR/STTR Data with the appropriate legend.

(1) The authorized legend shall be placed on each page of the SBIR/STTR Data. If only portions of a page are subject to the asserted restrictions, the SBIR/STTR Awardee shall identify the restricted portions (*e.g.,* by circling or underscoring with a note or other appropriate identifier). With respect to SBIR/STTR Data embodied in Computer Software, the legend shall be placed on: (1) The printed material or media containing the Computer Software; or (2) the transmittal document or storage container. The legend shall read as follows:

SBIR/STTR DATA RIGHTS

Funding agreement No.	
Date Last Deliverable Due	
SBIR/STTR Awardee	
SBIR/STTR Awardee Address	

This is SBIR/STTR Data (or is Computer Software or a prototype that embodies or includes SBIR/STTR Data) to which the SBIR/STTR Awardee has SBIR/STTR Data Rights and to which the Government has received SBIR/STTR Technical Data Rights (or SBIR/STTR Computer Software Rights) during the SBIR/STTR Protection Period and Unlimited Rights after the Protection Period, as those terms are defined in the SBIR/STTR funding agreement. Any reproduction of SBIR/STTR Data or portions of such data marked with this legend must also reproduce the markings.

(End of Legend)

(2) If the SBIR/STTR Awardee has marked its data using the date last deliverable due, and the date of acceptance of the last deliverable differs from the date the last deliverable is due, the SBIR/STTR Awardee has the option of remarking the data with the date of acceptance of the last deliverable. Data submitted without correct or appropriate markings may be corrected within 6 months from the date the data is delivered.

(d) *Relation to patents.* Nothing regarding SBIR/STTR Data Rights or SBIR/STTR Limited Rights in this clause shall imply a license to or imply a requirement to license to the Government under any patent to a Subject Invention (As defined under the Bayh-Dole Act) under an SBIR/STTR award.

(End of Clause)

(4) *Copyrights.* Include an appropriate statement concerning copyrights and publications addressing national security considerations, if any, and the appropriate acknowledgement and disclaimer statement.

(5) *Invention Reporting.* Include requirements for reporting inventions. Include appropriate information concerning the reporting of inventions, for example:

"SBIR/STTR Awardees must report inventions to the awarding agency within 2 months of the inventor's report to the awardee."

Note: Some agencies provide electronic reporting of inventions through the NIH iEdison Invention Reporting System (iEdison System). The iEdison System may be used to satisfy all invention reporting requirements mandated by the applicable regulations. Access to the system is through a secure interactive Internet site, *http://www.iedison.gov,* to ensure that all information submitted is protected. All agencies are encouraged to use the iEdison System. In addition to fulfilling reporting requirements, the iEdison System notifies the user of future time sensitive deadlines with enough lead-time to avoid the possibility of loss of patent rights due to administrative oversight.

(e) *Cost-Sharing.* Include a statement essentially as follows:

"Cost-sharing is permitted for proposals under this program solicitation; however, cost-sharing is not required. Cost-sharing will not be an evaluation factor in consideration of your Phase I proposal."

(f) *Profit or Fee.* Include a statement on the payment of profit or fee on awards made under the SBIR/STTR program solicitation.

(g) *Joint Ventures or Limited Partnerships.* Include essentially the following language: "Joint ventures and limited partnerships are eligible provided the entity created qualifies as a small business concern as defined in this program solicitation."

(h) *Research and Analytical Work.* Include essentially the following statement:

SBIR:

(1) "For Phase I a minimum of two-thirds of the research and/or analytical effort must be performed by the proposing small business concern unless otherwise approved in writing by the funding agreement officer after consultation with the agency SBIR Program Manager/Coordinator.

(2) For Phase II a minimum of one-half of the research and/or analytical effort must be performed by the proposing small business concern unless otherwise approved in writing by the funding agreement officer after

consultation with the agency SBIR Program Manager/Coordinator."

STTR:

"For both Phase I and Phase II, not less than 40 percent of the R/R&D work must be performed by the SBC, and not less than 30 percent of the R/R&D work must be performed by a, partnering Research Institution, as defined in this solicitation."

(i) *Awardee Commitments.* To meet the legislative requirement that SBIR/STTR solicitations be simplified, standardized and uniform, clauses expected to be in or required to be included in SBIR/STTR funding agreements must not be included in full or by reference in SBIR/STTR program solicitations. Rather, applicants must be advised that they will be required to make certain legal commitments at the time of execution of funding agreements resulting from SBIR/STTR program solicitations. Essentially, the following statement must be included in the "Considerations" section of SBIR/STTR program solicitations:

"Upon award of a funding agreement, the awardee will be required to make certain legal commitments through acceptance of numerous clauses in Phase I funding agreements. The outline that follows is illustrative of the types of clauses to which the contractor would be committed. This list is not a complete list of clauses to be included in Phase I funding agreements, and is not the specific wording of such clauses. Copies of complete terms and conditions are available upon request."

(j) *Summary Statements.* The following are illustrative of the type of summary statements to be included immediately following the statement in subparagraph (i). These statements are examples only and may vary depending upon the type of funding agreement used.

(1) *Standards of Work.* Work performed under the funding agreement must conform to high professional standards.

(2) *Inspection.* Work performed under the funding agreement is subject to Government inspection and evaluation at all times.

(3) *Examination of Records.* The Comptroller General (or a duly authorized representative) must have the right to examine any pertinent records of the awardee involving transactions related to this funding agreement.

(4) *Default.* The Government may terminate the funding agreement if the contractor fails to perform the work contracted.

(5) *Termination for Convenience.* The funding agreement may be terminated at any time by the Government if it deems termination to be in its best interest, in which case the awardee will be compensated for work performed and for reasonable termination costs.

(6) *Disputes.* Any dispute concerning the funding agreement that cannot be resolved by agreement must be decided by the contracting officer with right of appeal.

(7) *Contract Work Hours.* The awardee may not require an employee to work more than 8 hours a day or 40 hours a week unless the employee is compensated accordingly (for example, overtime pay).

(8) *Equal Opportunity.* The awardee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(9) *Affirmative Action for Veterans.* The awardee will not discriminate against any employee or application for employment because he or she is a disabled veteran or veteran of the Vietnam era.

(10) *Affirmative Action for Handicapped.* The awardee will not discriminate against any employee or applicant for employment because he or she is physically or mentally handicapped.

(11) *Officials Not To Benefit.* No Government official must benefit personally from the SBIR/STTR funding agreement.

(12) *Covenant Against Contingent Fees.* No person or agency has been employed to solicit or secure the funding agreement upon an understanding for compensation except bona fide employees or commercial agencies maintained by the awardee for the purpose of securing business.

(13) *Gratuities.* The funding agreement may be terminated by the Government if any gratuities have been offered to any representative of the Government to secure the award.

(14) *Patent Infringement.* The awardee must report each notice or claim of patent infringement based on the performance of the funding agreement.

(15) *American Made Equipment and Products.* When purchasing equipment or a product under the SBIR/STTR funding agreement, purchase only American-made items whenever possible.

(k) *Additional Information.* Information pertinent to an understanding of the administration requirements of SBIR/STTR proposals and funding agreements not included elsewhere must be included in this section. As a minimum, statements essentially as follows must be included under "Additional Information" in SBIR/STTR program solicitations:

(1) This program solicitation is intended for informational purposes and reflects current planning. If there is any inconsistency between the information contained herein and the terms of any resulting SBIR/STTR funding agreement, the terms of the funding agreement are controlling.

(2) Before award of an SBIR/STTR funding agreement, the Government may request the applicant to submit certain organizational, management, personnel, and financial information to assure responsibility of the applicant.

(3) The Government is not responsible for any monies expended by the applicant before award of any funding agreement.

(4) This program solicitation is not an offer by the Government and does not obligate the Government to make any specific number of awards. Also, awards under the SBIR/STTR program are contingent upon the availability of funds.

(5) The SBIR/STTR program is not a substitute for existing unsolicited proposal mechanisms. Unsolicited proposals must not be accepted under the SBIR/STTR program in either Phase I or Phase II.

(6) If an award is made pursuant to a proposal submitted under this SBIR/STTR program solicitation, a representative of the contractor or grantee or party to a cooperative agreement will be required to certify that the concern has not previously been, nor is currently being, paid for essentially equivalent work by any Federal agency.

§ 6. *Submission of Proposals.*

(a) This section must clearly specify the closing date on which all proposals are due to be received.

(b) This section must specify the number of copies of the proposal that are to be submitted.

(c) This section must clearly set forth the complete mailing and/or delivery address(es) where proposals are to be submitted.

(d) This section may include other instructions such as the following:

(1) *Bindings.* Please do not use special bindings or covers. Staple the pages in the upper left corner of the cover sheet of each proposal.

(2) *Packaging.* All copies of a proposal should be sent in the same package.

§ 7. *Scientific and Technical Information Sources.* Wherever descriptions of research topics or subtopics include reference to publications, information on where such publications will normally be available must be included in a separate section of the solicitation entitled "Scientific and Technical Information Sources."

§ 8. *Submission Forms.* Multiple copies of proposal preparation forms necessary to the contracting and granting process may be required. This section may include Proposal Summary, Proposal Cover, Budget, Checklist, and other forms the sole purpose of which is to meet the mandate of law or regulation and simplify the submission of proposals.

§ 9. *Research Topics.* Describe sufficiently the R/R&D topics and subtopics for which proposals are being solicited to inform the applicant of technical details of what is desired. Allow flexibility in order to obtain the greatest degree of creativity and innovation consistent with the overall objectives of the SBIR/STTR program.

[FR Doc. 2016–07817 Filed 4–6–16; 8:45 am]

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